



Interval House
of Hamilton

FREEDOM FROM VIOLENCE

**Response to City of Hamilton Council on the Commission for the
Review of Social Assistance in Ontario: Approaches for Reform**

Clare Freeman, Executive Director

Summary:

As a long standing member of Ontario Association of Interval and Transition Housing(OAITH) and as the former Chair of the domestic Violence Advisory Council to the government Ontario, I can say without a doubt the issues of poverty and violence against women and equity are linked in all aspects of prevention, intervention and postvention work for women leaving abuse and who become homeless. Violence against Women advocates, the World Health Organization, United Nations stresses the co-relationship between women's full participation in society as a requirement to ending violence and poverty.

Thus, since 1995 in Ontario women's advocates and shelters have been writing papers, lobbying and working with policy makers to help them understand the harmful effects the Ontario Work and Ontario Disability reforms of 1995 had on women fleeing violence and on homeless women.

Our work with women since this time has become more difficult, not because of the women but because of the systems and their non-responsiveness to women's needs especially their needs regarding income support, housing and access to affordable (universal) child care.

The United Nations and Canada's involvement with the Status of Women World Conferences have all pointed to the income disparity between men and women and the differences in child care as being a major barrier to women's full participation in society and the need to do sex-gender-based analysis to government policies.

In 2011, Interval House of Hamilton was awarded a grant by Status of Women Canada to look at creating a city embracing a sex gender-based analysis to creating a safe city. Part of this endeavour is to look at how do men and women's lives differ and how do policies affect the outcomes of men and women. When it comes to poverty and the reasons for both acute and chronic poverty for women, violence and child care are always at the top of the list.

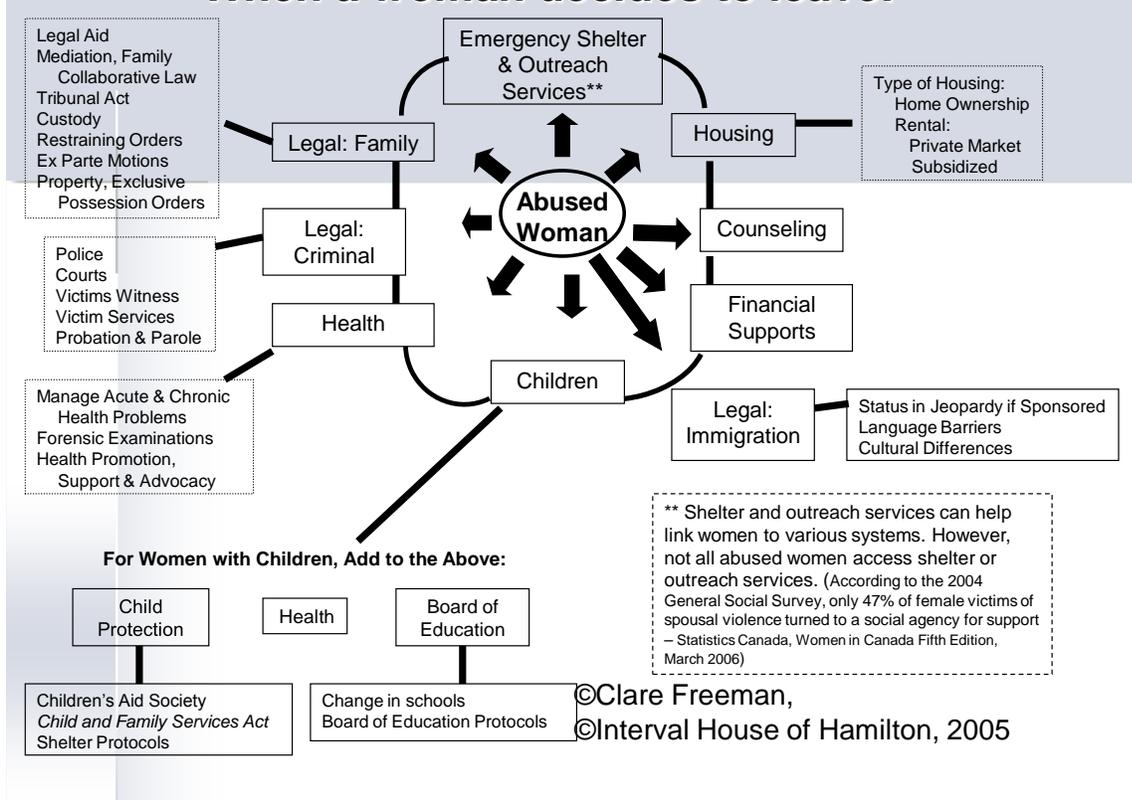
Thus when the government of Ontario developed a commission to look at Ontario Work's we were pleased. It needs to be reformed. However, it must start with a

review using a sex gender based equity framework. Without this women who seek to leave abusive relationships will continued to be burdened unfairly and will continued to be judge by services. In addition, the reforms will miss the opportunity to develop social policies that can lead to better prevention, intervention and postvention outcomes.

A day in the life of an Abused Woman

A day in the life of an abused woman after she leaves is NOT easy. The barriers she faces are as unique as her life experiences and the inequity she faces. It is made even more difficult by the responses provided by systems. During a time when research will tell us women are most venerable to being killed we make her feel as though she is unworthy and undeserving of support by the ways in which the system measures if she is abused enough to have support. The amount provided for single women and women with children sends the message that they are not valued. For many women when she leaves she is forced into accessing multiple services and organizations at the same time. Each system rarely works in collaboration with each other and makes the woman responsible to fight for her rights. She is doing this while he is often harassing, stalking and or harming her. However, he may also be telling her he is going to change. So why are we still blaming women for staying when we make it difficult for her to leave.

When a woman decides to leave:



This is NOT fairness or dignified.

Furthering to this, after we leave her vulnerable to the stresses and coping strategies of poverty and violence we then call her homeless and we provide her with even less options of dignity and respect. We blame her for the issues of poverty including not keeping up with all the bills. Then when she comes back into the shelter system as homeless she faces further barriers to housing and/or seeking services such as addiction and mental health services. When we provide her options to getting back into the community often times women are left with having to place their belongings into storage at a costs that eliminates any savings to supportive/transitional housing. Thus she is often in the position of disposing of her furnishing and then only to ask for a start up to replace them a year later. This is not helpful to the woman in helping her plant roots for herself/and or if she has children.

When we develop services for women we need to ask women who use public housing, Ontario Works, food banks, transitional or emergency shelters about their experiences as it relates to poverty and safety.

Our recommendations to the commission are simple and clear:

- 1. Implement the recommendations from OAITH's Walking on Eggshells Report of 2004, Abused Women's Experiences of Ontario Welfare System
http://www.yorku.ca/yorkweb/special/Welfare_Report_walking_on_eggshells_final_report.pdf**
- 2. Develop a Sex gender based equity framework to developing and implementing Ontario Works/Ontario Disability and all social services so that prevention, intervention strategies will reduce the barriers that lead to chronic long term use of social services.**
- 3. Ontario Works rates must be set where a person can afford rent, food, clothing and NOT have to access food banks or live in inadequate housing.**
- 4. Ensure systems like child welfare, family courts, housing, immigration, and Ontario Works work collaboratively to ensure women's safety is ensured and policies do NOT add to her costs, impede her safety, and/or further harm to her children.**
- 5. Do not implement the Drummond report recommendation to limit annual spending growth in Ontario Works and the ODSP to 0.5% for the next six years.**
- 6. Create more jobs that pay a living wage with benefits.**
- 7. Invest in full dental care**
- 8. Be cautious about changing the "specialty diet" without proper measures to ensure those who needs for a special diet are NOT adversely affected by adjustments.**
- 9. Change attitudes towards people on assistance. The attitude that says as people on assistance do not want to work and are unworthy of a system that provides them with dignity, respect and hope. Re-think the idea of what you mean "fairness". Fairness can only be met when equity is the goal because it will account for differences.**
- 10. Provide children who are crown wards with the opportunity for fully paid post-secondary education.**
- 11. Provide a Ontario Works/Ontario Disability system that accounts for the differences of rural and urban living.**

We support these excerpts from the Income Security Advocacy Centre report to the commission:

1. An Equity Approach to Employment Supports and Services

The Commission has acknowledged that there is much more diversity among the people on OW in terms of their relationship with work than the program currently recognizes or can effectively respond to. As the Commission's second discussion paper says,

“Some people receive social assistance for a short time and are able to enter or re-enter the workforce with the level of support currently available or with their own sources of support. Others experience a repetitive cycle of employment and receiving social assistance. Still others require long-term assistance. Employment services and supports must therefore meet a wide variety of needs, but what is currently available is failing to identify and meet the range of needs of people who are not able to enter the workforce easily.” (4)

In other words, people on OW need different types of supports and services, which should be tailored to their different experiences, needs, and aspirations. But beyond this, we know that the reasons that people are on OW are related to broader social and economic disparity and exclusion – in other words, not everyone has equal access to the labour market. Newcomers and people from racialized communities continue to face discrimination in employment. Women's needs as parents or caregivers are often not recognized in the workplace. And people with disabilities face both discrimination and lack of accommodation.

This has resulted in a situation of “double disadvantage” wherein people who are disadvantaged in the economy and society become further disadvantaged by the inadequate response from the social assistance system. The social assistance review is the opportunity we have to build a system that addresses and responds to these broader issues.

Taking an equity approach to transforming OW is how such a response can be undertaken, and we recommend the Commission build an equity approach into its final recommendations. As the Wellesley Institute has rightly stated, “Equity is about addressing differences in outcomes that are avoidable, unfair and systematically related to social inequality and disadvantage. Equity means that people with different needs are supported in different ways”.¹

The first step in using an equity approach to build a better OW program is to understand the population of people that are using or may need to use the program. Most often,

¹ “When do we talk about health? Ontario's option paper needs to build a stronger vision of a health-enabling social assistance system.” <http://www.wellesleyinstitute.com/health-care/when-do-we-talk-about-health/>

these are people who are at greater risk of poverty and social and economic exclusion. As noted in s. 2(2)3 of the *Poverty Reduction Act 2009*, “not all groups of people share the same level of risk of poverty. The poverty reduction strategy must recognize the heightened risk among groups such as immigrants, women, single mothers, people with disabilities, aboriginal peoples and racialized groups.” This requires better attention to and better collection of data both inside the Ministry of Community and Social Services and in the economy and society as a whole.

And, as the province’s Poverty Reduction Strategy notes, “Women, racialized communities, newcomers, people with disabilities, and Aboriginal peoples among others, experience poverty in relatively greater numbers, and for often complex reasons. ***The unique needs of these groups require tailored solutions and we know that we need to continue to view the issue of poverty from these perspectives going forward***” (p.5, emphasis added). The second step in using an equity approach, therefore, is to use this understanding to design OW – and the supports and services it offers – in ways that not only provide for better quality employment-related supports, but also respond to the specific barriers faced by people in each of these groups. For example:

- **Single mothers** are disproportionately at risk of poverty – not only because as **women** they are paid on average less than 80% of what men make², but also because they have only one income and because care-giving and child-rearing roles are not recognized and accommodated in the workplace. These roles must be acknowledged in the OW system. Single mothers must therefore be given the opportunity to pursue education, training, employment and/or volunteer opportunities that are not only appropriate to their personal goals but that also recognize their roles as mothers. Child care and transportation allowances must be provided to facilitate single mothers’ participation in employment-related training and education. And the system must be flexible enough to accommodate these roles by allowing single mothers to be exempt from these activities, whether over the longer-term or on a situational basis, when they conflict with their responsibilities as mothers and caregivers. Single mothers should not have their incomes, and thus the stability of their families, threatened due to the requirements of participation agreements that do not acknowledge their multiple responsibilities and roles. Violence must also be recognized in the lives of women and single mothers. Many women become single mothers not by choice but because of relationship breakdown caused by violence. Women leaving violent relationships and struggling to recover from violence need supports and services from OW, not coercive treatment.
- **Immigrants and newcomers to Canada** are also disproportionately at risk of poverty. Language training, both at basic and advanced, profession-related levels, is critical, but just as critical is training caseworkers to be responsive to and respectful of other languages, as well as providing information to recipients in

² Statistics Canada, 2010. Economic Well-Being: Women in Canada: A Gender-based Statistical Report. <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11388-eng.pdf>

easily understood terms or in their home language. Building relationships with employers and internships or work placements are all important ways to create quality employment services that are provided to immigrants and newcomers. But appropriate work-related activities must be provided to support people into careers that they are trained for. For many foreign-trained professionals, the biggest barrier is the requirement for “Canadian experience” before they can secure appropriate, well-paying employment in their field. People must be allowed to meet their participation agreement requirements through volunteer work in their field, rather than forcing them into paid employment in an unrelated field or in poorly paid jobs. And changes to labour market policy must also be made, as many immigrants are willing to accept very poor-quality work conditions rather than face the humiliation and stigma that are associated with being on OW or ODSP. The system must also make up for the income disadvantage that refugees face because they are not eligible to claim child benefits. And the system must provide an appropriate response to the needs of refugees who have suffered from violence and are experiencing post-traumatic syndrome. Their unique challenges are currently not well recognized by either OW or ODSP, and their vulnerability is exacerbated by the surveillance aspects of social assistance that makes them feel re-victimized by a system that is insensitive and often punitive.

- **Members of racialized groups** are also disproportionately at risk of poverty. Improved ethno-specific employment services that are sensitive to the needs of people from racialized groups – and delivered by service-providers that are cognizant of these needs – are critical to respond to their particular requirements. But more must be done to make the labour market more accessible to members of racialized groups. Employment Standards protections must be improved to protect workers in low-paying and non-standard work, many of whom are people from racialized communities. And more must be done to ensure that members of racialized groups have equitable access to quality jobs.
- **Aboriginal peoples** are also disproportionately at risk of poverty. The Commission has been meeting separately with First Nations groups both on- and off-reserve to discuss the distinctive problems experienced by this group and ways to reform the social assistance system in order to appropriately respond.
- Building services that respond to the needs of **people with disabilities** must also be part of the effort to rebuild OW. People with disabilities are also more at risk of poverty. And many people on OW have disabilities but do not qualify for ODSP. OW employment supports must therefore build in responsiveness to the issues of disability when creating services. Dismantling ODSP in the way that the Commission’s second discussion paper describes, before building responsive, accessible, and accommodating employment supports and training programs for everyone, is the wrong way to approach reforming social assistance. When the “basic” OW program is sufficiently responsive to the variety of needs of various groups and to the services that they require, discussion can be had about whether or not a separate ODSP program continues to be required.

Taking an equity approach may mean that some services are created for and offered to some people but not to others. But that's what it means to support people with different needs in different ways. Substantive equality requires more than simply providing everyone with access to the same programs and opportunities.

Creating equity-based employment supports and services will best be accomplished through the direct involvement of representatives of the disadvantaged groups enumerated in the *Poverty Reduction Act*. A series of representative advisory groups made up of people with lived experience of OW / ODSP and service providers should be established to assist in the creation of appropriate, responsive programs. These advisory groups would help government comply with their own legislation, including both the *Poverty Reduction Act* and the *Ontario Human Rights Code*.

We are also making a similar recommendation about the delivery of employment supports. ISAC does not have the expertise to recommend who is best positioned to provide employment supports, and we have heard from our community partners that there are deficiencies with each of the models the Commission has proposed. We have also heard that non-profit NGOs provide critical targeted services to disadvantaged groups, like women and newcomers. As such, we urge the Commission to ensure that changes to delivery of employment supports occur as a result of more targeted advice so that the impacts of various options on various groups are well-understood and addressed.

In the meantime, a number of other, critical improvements must be made to employment supports in order for them to be more effective:

- **As an overriding principle, employment-related services and supports should be focused on helping people improve their prospects in the labour market, not getting them into the first available job.** Requirements for people to take the first job that is available – or risk losing their income supports – must be ended. The goal of poverty reduction requires that people be given the opportunities and supports to get into good, long-term, stable and sustainable jobs instead of entry-level, poor quality jobs.
- **Participation agreements (PAs) must be fundamentally transformed.** The activities that people on OW must agree to undertake currently operate, in most instances, as imposed obligations determined primarily by caseworkers based on services available. Instead, PAs should be created through collaborative processes between people receiving assistance and those providing services, with real choices for training and services, supported by vocational assessments, and driven by the realities of the lives of people at disproportionate risks of poverty, as noted in the sections above. Until such time as changes like these are made in OW, any moves to institute participation agreements for people with disabilities on ODSP will simply put their incomes in jeopardy and undermine their autonomy and dignity.

- **Appeal processes** must be built into the system to give people receiving services the ability to respond when participation agreements are unreasonable or when employment services are inappropriate or unavailable. Appeal processes not only provide critical remedies for individuals, they also uncover systemic problems in the system that can then be addressed in a holistic manner.
- **Access to higher education is essential.** Improving the quality of employment supports and services cannot be accomplished without improving access to education and training programs that go beyond a purely vocational focus. Given the labour market's increasing requirement for higher education, social assistance must provide people with the ability to access post-secondary training without going into significant debt to do so. Engaging education and training institutions funded through the Ministry of Training, Colleges and Universities in innovative programs to serve people on assistance could be one mechanism used. And, as with all other aspects of making reforms to social assistance programs, the rationale to do so lies in the principles of poverty reduction and equity.
- **Assessment tools** can be helpful in determining the supports and services that people require in order to pursue employment. But the incorrect tools applied in the wrong ways can be damaging to the process of supporting people into employment. In the UK, the use of work capacity assessment tools has resulted in widespread disenfranchisement to income supports among people with disabilities, and a very high rate of decisions around work capacity being overturned at appeal. Employment-related assessment tools must only be used voluntarily, in conjunction with the creation of a full employment readiness plan, to help determine the appropriate course of training or employment services that a person will pursue. Assessment tools must be individualized and flexible, and thus assessment cannot rely on a standard "one-size-fits-all" tool. In addition, employment-related assessment tools, like work capacity tools, cannot be used to determine a person's eligibility for benefits, and cannot be used to screen people out of employment or employment-related supports.

2. Complexity of Benefits: Simplification Cannot Erode Income Adequacy

The Commission indicates that the number of benefits and the complexity of the benefit structure in both OW and ODSP are hard for people on assistance to understand and for caseworkers to administer. The Commission proposes a number of ways to simplify the benefit structure to resolve these problems. The changes proposed would affect both the benefits that determine a person's eligibility and the "special benefits" that are available only after a person is actually on the program.

Changing Elements of the Benefit Structure

The Commission proposes collapsing the 'Basic Needs' and 'Shelter Allowance' amounts into one basic standard rate that everyone would get, which would eliminate the requirement for people to provide rent receipts. As long as this administrative change would mean that no one would get less money as a result, pursuing this option would be a step forward.

The Commission also proposes eliminating categories like 'room and board' or 'dependent adult' and giving everyone the same basic standard rate, which would also eliminate rent receipts and would get rid of the need for people to have their housing arrangements verified. If this means that those who currently receive the boarder rate would see an increase in their incomes up to the maximum basic needs and shelter rate, this would also be a positive step. We are unsure, however, about the implications of eliminating the dependent adult category, however, and recommend further examination of this option.

Another issue that the Commission identifies is that there is no "policy rationale" for the higher basic needs amount provided to the spouse of an ODSP recipient as compared with the spouse of an OW recipient. This would only be true if each person were treated as a separate benefit unit. However, if the spouse's income continues to determine the benefit level for the person with a disability, the impact of implementing "policy consistency" in this case would be a reduction in income for households of persons with disabilities. If a person with a disability were treated as a separate benefit unit, only then would the "OW treatment" of their spouse be appropriate.

Special Benefits Are Necessary Until Adequacy is Met

The Commission proposes rolling some "special benefits" into a basic standard rate that would be available to everyone. While it is true that the availability of these benefits is inconsistent, the question is whether rolling them into basic rates is the right solution. Answering that question requires an understanding of why these benefits exist.

Social assistance rates are well below any recognized poverty line and below basic subsistence levels for food and shelter. Many people survive on social assistance only because they also make routine visits to food banks and other charitable agencies. There is no room in people's budgets for periodic larger expenses like moving, starting a new job, buying furniture, or getting a new mattress when poor housing has led to an infestation of bed bugs. The Community Start-Up and Maintenance Benefit was created to help pay for these kinds of expenses.

The cost of getting to and from medical appointments is critical for people on social assistance, which is why the MSN-Travel benefit was created. This benefit is especially important for people who live in rural communities, where access to public transportation is either limited or nonexistent and where accessing regular specialized medical treatments may require hundreds of dollars in medical transportation. On the incomes that people currently receive, medical transportation costs are out of reach.

Rolling benefits like these into a basic standard rate would, in the best-case scenario, only translate into a modest across-the-board rate increase. However, it would also mean that people would lose the ability to pay for critically urgent or medically necessary expenses. Resolving complexity by simplifying the benefit structure in this way is an impossible trade-off to support. A better solution for the Commission to pursue is for government to take the administrative steps necessary to make these benefits more widely and clearly available.

Unless the incomes that people on assistance receive reach a level where all regular daily expenses are covered and costs for moving, medical transportation, and other special expenses can be budgeted for, it is critical for people to have access to the designated funds that “special benefits” provide. Otherwise, “rolling in” these “special benefits” will simply amount to a benefit cut.

Special Diet Allowance Addresses Costs Above Adequacy

The ‘Special Diet Allowance (SDA) is a benefit that people get when a medical professional has determined that they have a medical condition that requires a diet that costs more than a normal healthy diet. It is not a “special benefit” like those described above. Instead, like Basic Needs and the Shelter Allowance, the SDA is part of the basic income benefit package that people are entitled to receive and is part of the calculation that determines eligibility for OW and ODSP.

The proposal to roll the SDA into a basic standard rate poses a high level of risk, because it means eliminating funding for dietary treatment that people who have potentially life-threatening conditions depend upon. And it could mean that some people with medical conditions could lose eligibility for OW or ODSP.

It is unclear how the “programs and policies” of the Ministry of Health could make up for the loss of the money provided by the Special Diet Allowance, given that it is unlikely that Ministry of Health would provide an income benefit. As such, this proposal amounts to a rate cut for many people currently on OW or ODSP, one which could have potentially serious medical consequences. It is not a proposal that we support.

3. A System that is Easier to Understand

Auditing a system of changed rules

Moving to a system of auditing instead of the system of regular comprehensive verification, as proposed by the Commission, could be a good way to reduce surveillance and complexity. We are pleased that the Commission is looking at recommending a resolution to the issues of surveillance and complexity, and the stigma that arises from a system that polices a person’s every move. As the Commission has noted, auditing would significantly reduce reporting requirements for people on

assistance and the collection and verification responsibilities of caseworkers. But the question remains – *what would people be audited for?*

While some reporting and verification requirements would be reduced by changing the benefit structure, as the Commission notes, hundreds of rules would remain, any of which could be the subject of an audit. Differentiating between overpayments that are caused by the operation of the program and those that are a result of fraud is key. Without changing the underlying rules, audits have the very real potential of simply delaying the point at which “overpayments” are detected, creating even higher amounts of money that people will have to pay back. Adding a financial penalty as deterrence simply increases economic insecurity.

Changes to rules such as those described below should accompany any move to institute an audit system.

Income Reporting and Verification: Much of the surveillance and complexity that people (and their caseworkers) contend with arises from the monthly income reporting and verification requirements. Often, a person’s benefits are put on hold while the verification process takes place, meaning that they have no source of income in the interim.

Monthly reporting generates the majority of “overpayments” in the system. The amounts are often relatively small – not enough to make a person ineligible for benefits overall, but enough to make a difference to people whose incomes are so inadequate. Chasing after these small amounts of money from month to month is inefficient and costly and doesn’t give caseworkers time to support people properly. And just as importantly, it makes people feel as though they’re a criminal or deliberately committing fraud.

Moving to an auditing system without dealing with the income reporting and verification rules would simply delay and compound overpayments for those people who are audited. The Commission should study further the advice provided in the 2011 report, “What Stops Us From Working?”, which recommends moving from monthly to annual income reconciliation. The report also recommends moving to a voluntary system of monthly income reporting. This would remove surveillance, complexity, suspicion, and administrative work, and would also enhance people’s ability to get monthly support from their caseworkers to plan their financial situation.

Instituting a policy of only pursuing income on a “go-forward” basis (i.e., no retroactive application of income rules) should also be considered, whether as part of a move to annual reconciliation (i.e., to resolve the problem of larger “overpayments” that could result) or as a separate option for reform.

Broad Definition of Income: Part of the problem described above is that “income” is defined too broadly. For example, if a person receives a loan from a friend to help them get through the month, that loan is considered income for the purposes of establishing eligibility. Not only does the loan have to be paid back, but the person also has to

“repay” the “overpayment” they received from OW or ODSP – so they have to repay it twice. This is just one of the absurdities in the income definition rules that should be changed, and not left to an auditing system to pick up and punish at some future date.

Spousal Support Obligations: The definition of “spouse” in the OW and ODSP legislation is different from the definition in family law, creating support obligations that people who aren’t on social assistance don’t have. Under family law, a person is obliged to support another person after they live together for three years. In OW and ODSP, that obligation starts at three months. Many people don’t know that this rule exists, since they assume that the family law definition is the law. And they don’t know that this rule means that they could be “deemed” to be in a spousal relationship and thus “overpaid”.

An auditing system could make declaring and verifying marital status easier, but resolving the underlying problem would only happen if the definition of “spouse” is changed. Without such a change, auditing would simply prolong the accumulation of overpayments.

Receipts and Time Limits: Keeping income statements and receipts for months or even years in case of audit can be very problematic for some people on social assistance. Many people on social assistance have disrupted and difficult lives, especially when they receive so little income that they have to move frequently to find more affordable or safer housing. Many others have mental health or developmental disabilities. Still others have difficulties with language and literacy. For those who have difficulty keeping receipts, auditing would inevitably lead to situations where people are audited, don’t have receipts, and are penalized because of it.

People on assistance should be given the choice of continuing to submit required receipts monthly or should have some other form of support provided to help with their record keeping so that they aren’t penalized if they are eventually audited.

And a limit should be placed on how many years an audit can go back. The Canada Revenue Agency’s seven year reach-back period is inappropriate for people on social assistance. Another, significantly lesser period must be put in place for any audits introduced to the social assistance system.

4. Income Security Integration: Interactions with Other Programs

The Commission has asked if there are other major and problematic interactions between social assistance and other programs that have not been mentioned in the second discussion paper.

ODSP and disability income support programs: This paper does not address the interactions between ODSP and other disability support programs, and whether this interaction could be the reason for rising ODSP caseloads. John Stapleton has discovered in his analysis of changes in the relative share of disability expenditure

among the disability income programs available in Ontario, that it may be that other disability income programs that are tied to employment income (e.g., CPP-D, EI sickness, WSIB, private programs) are not carrying their fair share of increasing incidence of sickness and disability.

As the ODSP Action Coalition noted in its submission entitled “An Activation Agenda”, Stapleton has found that, “in Ontario, the share of income support provided by ODSP in the past 5 years has risen from 29% to almost 32%, which is disproportionate to the increase in income support provided by all disability-related programs over the same period.” Decreasing eligibility for other disability income support programs, either because the growing number of irregular, contractual, and part-time jobs aren’t covered by these programs or because of other program changes that have limited eligibility, may be the reason that ODSP caseloads are growing.

We particularly note that changes to WSIB have meant that a growing number of injured workers, who were formerly able to rely on WSIB pensions for income support, now rely on ODSP either to top up what they receive from WSIB or as their only income source. WSIB income is now based on loss of future earnings, so that a minimum wage injured worker who is “deemed” employable in another minimum wage job would receive nothing, despite an injury with long-term or permanent consequences. The lowest paid workers are thus increasingly being excluded from other income support programs. This would not be reflected in ODSP statistics.

Responding to the problem of growing costs in ODSP may best be resolved by addressing the problems of increasingly limited eligibility for other disability income support programs.

Family law and social assistance: Another oversight is the interactions between family law proceedings and OW/ODSP. These programs currently require recipients to pursue other sources of income, which for women includes a policy that forces them to go to family court in search of child support orders against ex-spouses or fathers of their children. What looks like a reasonable requirement in a social assistance program can have serious negative impacts on women and children, often the opposite intended by the policy, including:

- women who are fleeing abusive and violent relationships are not consistently given the exemption from the requirement to pursue child support outlined in the policy directives. This puts these women and their children at risk of further violence, and we have heard reports from the community of women who have suffered physical abuse triggered by court applications;
- women are often forced to return to court to seek increased support payments even when arrangements are already in place if their caseworkers believe that the supporting parent should be paying more or if the income of the father is unknown. Applications for variation of support can lead to a re-opening of settled custody arrangements. And in many instances, re-opened litigation results in reduced support rather than increased support;

- child support orders that are made by judges for specific expenses are routinely deducted dollar for dollar, unless they are disability related expenses. This occurs even when the actual expense is disability-related but the paying parent does not acknowledge the disability so it may be framed differently in the order.

Forcing women into the court system, effectively taking critical decisions about post-separation arrangements out of the hands of mothers, is not only is not only potentially damaging to women and children, but also can undermine the original purpose of this social assistance rule by reducing child support instead of increasing it. It is not unusual for fathers to try to avoid paying child support by increasing their access orders – they know their child support obligation will be reduced if their child is with them at least 40% of the time.

Social assistance rules are putting women fleeing violence at risk, and undermining Ontario's family law policy by turning amicable separations into high conflict, adversarial ones – the opposite of where family law policy is heading. This comes at a high cost to the justice system, where much of the family law litigation is now triggered by social assistance programs.

An alternative approach would be to move to a positive incentive to pursue support. If mothers were allowed to keep at least a portion of support orders by treating that income as exempt for the benefit of the children instead of as a dollar for dollar deduction, everyone would benefit. Mothers could make their own decisions and do their own assessments of whether or not it is risky to proceed to court.

Child welfare law and social assistance: When mothers interact with Children's Aid Societies, social assistance should provide the necessary supports to help them keep or regain custody of their children. Reducing OW or ODSP benefits provided to mothers, as is currently the case in these situations, undermines this process. Mothers require the resources to continue providing for their children, because doing so is critical to re-establishing custody. The problem is compounded when caseworkers make their own determination that a child is unlikely to return to the home and reduce the mother's shelter allowance while she is still in litigation with Children's Aid. The reduction in the shelter allowance effectively means that the children no longer have a home to return to, undermining the mother's ability to regain custody of her children.

Social assistance and education: One of the more perverse rules in social assistance is that benefits are reduced when children are not attending high school regularly. The parents of children who are having difficulty with school should be supported rather than punished. Parents of children at risk of not completing high school need support, not a threat to their income to enforce compliance with the Education Act. Reduction of benefits simply puts parents in the position of not being able to provide food and shelter for their children.

5. Transforming ODSP: Why can't people with disabilities have both a secure income source and opportunities for employment?

The Commission's second discussion paper contains a variety of options for changing ODSP that, taken together, have the potential to completely overhaul income and employment supports for people with disabilities. The changes to ODSP are more explicitly described in the paper than changes to OW.

While there are many problems with the ways in which ODSP currently supports people with disabilities, the program has largely succeeded at providing a secure source of income support that is closer to adequacy than Ontario Works, and at protecting higher levels of assets, many of which are acquired by people with disabilities through inheritance or damage awards. ODSP also provides a series of special benefits that are available to cover expenses that people would otherwise not be able to afford through monthly income supports.

ODSP has, however, done at least three things poorly. It does not provide effective supports to people with disabilities who want to participate in the community and the labour market. Access to ODSP has long been a key concern; the difficulties that people have in accessing ODSP supports are functions of the way the program operates, as documented in many widely-circulated reports that have already been provided to the Commission. And ODSP has many of the same income eligibility rules that plague people on Ontario Works with intrusive information requirements and monthly income monitoring and reconciliation.

These are the problems with ODSP that should be addressed.

As a secure source of income for people who face unresolved barriers to the labour market, and when the Accessibility for Ontarians with Disabilities Act is only beginning to be brought into effect, reform of ODSP should proceed slowly and cautiously.

Process of reform: The Commissioners say they want to see change that supports the aspirations of people with disabilities. Everyone would agree this should be a key goal of a program that provides both income and employment supports. But how that change occurs is critically important.

The Law Commission of Ontario (LCO) is currently in the final stages of creating a tool that would help the Commission develop appropriate law and policy for disability income supports. The LCO is a body created by agreement between the Law Foundation of Ontario, the Ontario Ministry of the Attorney General, Osgoode Hall Law School and Ontario Law Deans. For the last three years, it has been working on a framework for an anti-ableist approach to law, policy and practice. This tool is being specifically created to assist policy-makers and legislators in developing new laws affecting people with disabilities. An interim framework is being released on March 20, the result of three

years of consultations and reflecting a developing consensus. We urge the Commission to use this tool to evaluate its own recommendations for the final report.

Changes to ODSP should be made with the direct involvement of people with disabilities through an ongoing advisory process. A long-standing disability slogan, “Nothing about us without us”, reinforces this point. Incorporating the lived experience of people with disabilities when creating or modifying laws and programs that affect them is the only way to ensure that the full impact of proposed reforms are understood, before any statutory or regulatory changes or and implementation occurs.

Program for people with “severe” disabilities: The Commission’s discussion paper asks whether there should be a separate basic income program for people with “severe disabilities who are unlikely to generate significant earnings over their lifetimes” (31). The main difficulty of creating such a program is the definition of disability used for eligibility. Programs that use the language of “severe” disability, like the Canada Pension Plan Disability program, tend to use a medical model of disability. Similarly, the Alberta program is very clear that disability is not related to “your age, lack of education or available jobs”. This type of definition runs counter to any modern approach to disability, in which the experience of disability is understood to also include the social and economic factors that can limit a person’s social and economic potential. Creating a “severe” disabilities program would be a step backwards from the current ODSP program, which looks at the whole person and the impact of disability on their lives.

The reaction to this option has been anger and fear from many people we have spoken to, for two reasons. Many people whose disabilities may not meet the test of “severe” – and thus may not qualify for such a program – object because their disability may also be the limiting factor in gaining employment, because of employer discrimination or the lack of accommodation in the workplace. Others object because of the assumptions being made about the abilities and employability of those who are deemed to have a severe disability, and the fear of and anger at being labelled as such.

The discussion paper cites three models as possible options for Ontario: the Caledon model; Old Age Security; or Alberta’s Assured Income for the Severely Handicapped (AISH) program. The Caledon proposal is for a federal program that would operate as a refundable tax credit, leaving provincial disability programs, including ODSP, in place. The Caledon proposal states very specifically that a federal program would free up the provincial dollars necessary to provide better and more available disability supports. Creating such a program at the provincial level would run counter to this intention. Nonetheless, the Caledon model relies on the problematic “severe” disability definition. The OAS model is similar to the Caledon model – and similar to CPP-D – in that it would be tax-delivered.

The Alberta AISH model, however, would be a clearly regressive option. It appears to have all the negative features of ODSP, in that it is both income and asset tested and requires regular reports of information to confirm eligibility, as well as the negative implications of a move to a “severe” disability definition. Moving to such a program

would mean everyone on the program would be deemed unemployable (and therefore unable to earn income from work or to receive employment-related services). The only good feature is the presumably higher income levels available through such a program – but increasing incomes does not require the creation of a new program. The much narrower definition of disability would leave many if not most people currently being served by ODSP outside of the program, left to an uncertain future until we have a clearer idea of what the re-designed Ontario Works program would look like.

We do not support the move to a “severe” disability income program.

Disability income supplement: A long-term income supplement for people with disabilities is a positive idea. In fact, ODSP currently operates in this way for many people with disabilities since it is designed to allow recipients to work while receiving benefits. Changing the unnecessarily intrusive nature of how the program deals with earnings would allow the program to better serve the needs of people with disabilities.

A supplement that operates as a tax credit that is available to a broader low-income population of people with disabilities may be promising, but requires more study and a full impact analysis to see who would be affected and what the impact would be on their incomes. More study would resolve critical outstanding questions such as what such an income supplement would mean for people currently on ODSP who work periodically or part time. It would also address the important issue of whether people on ODSP who work would receive less money through such a supplement system or more than they receive now. Reducing total income in the name of “fairness” runs contrary to principles of equity.

Employment supports: Improving employment services to people with disabilities should be the first priority for any transformation of social assistance. As the Commissioners heard, people with disabilities want to work, but ODSP does not provide services that support their ambitions. Whether services are delivered through better collaboration, by municipalities, or inside Employment Ontario, they must be specialized and targeted to address the specific barriers faced by people with disabilities. The services must also be responsive to the diverse and often multiple barriers that people face. Pent-up demand for services of this kind mean that it is more than likely that improved employment supports for people with disabilities on ODSP will be oversubscribed – the issue will be providing sufficient access rather than making employment-related activities for people with disabilities mandatory by instituting participation agreements.

And people with disabilities on ODSP want accountability in these services. Measures must be put in place to ensure quality of services, responsiveness of services, and access to services. While instituting provincial accountability measures could provide for some of this assurance, the most effective measure is providing redress to participants through instituting appeal mechanisms. Appeals allow for individual concerns to be resolved, and provide a mechanism through which the performance of programs can be monitored at a systemic level.

Mandatory participation agreements: We agree with the statement in the options paper that there should be no participation requirements for people with disabilities, at least until substantial progress has been made on removing barriers to employment. Any moves in this direction should only take place in consultation with disability communities. Any requirements to participate in the current labour market, coupled with the lack of accommodation most people with disabilities face, would only serve to put the incomes of people with disabilities at risk. Under OW, caseworkers continue to decide which activities constitute appropriate participation and “enforce” that participation by penalizing people by reducing or suspending their income benefits. This approach undermines the very autonomy and dignity that people with disabilities spend their lives trying to achieve. Mandatory participation – a coercive approach – does not in any way advance the aspirations of people with disabilities.

Moving to a single basic program: The long-term vision that the Commission presents as an option is a single basic program to serve everyone, without a separate disability program. Whether or not there is a need for a separate disability program in the future depends upon the ability of the “basic” program to respond to the needs of people with disabilities. Whether there are one or two programs, there is a need for specialized services responding to the range of particular needs of people with disabilities – both in employment services and in income supports. If OW can be transformed into an inclusive program that is capable of responding to the full range of needs reflected in the current population that relies on OW – from single mothers, newcomers, racialized communities and Aboriginal communities – then it may be possible to also integrate disability supports and services. This is not the same as a generic program that treats everyone in the same way, like the current OW program. Again, the disability community needs to be involved in the creation of such a program.

Support aspirations and provide security of income: ODSP recipients are among the most disadvantaged low-income residents in Ontario. An effective employment supports program should be begin to be developed immediately. In the meantime, income supports for people with disabilities must remain intact. No benefits should be cut or eliminated until a new program is created to meet that need – whether monthly income benefits, special benefits that are needed to address disability, funding for assistive devices, or medical transportation costs.