



Defend Disability submission to the pre-budget consultation for the 2020 Ontario budget

February 2020

To The Honourable Rod Phillips, Minister of Finance, regarding the proposed redefinition of disability under the Ontario Disability Support Program Act:

About Defend Disability

Defend Disability is a coalition of people with lived experience of disability, health care providers, experts and other service providers. Our submission on the budget addresses the impacts of the proposal to change the definition of disability under the Ontario Disability Support Program (ODSP) to more closely match federal definitions. We encourage the minister to consider the impact of this proposed change on the fiscal health of the public sector as well as to consider the impact of what appears to be a budget -driven decision on the wellbeing of Ontarians. We hope the minister will recognize that the evidence clearly points to adverse budgetary and social impacts from proceeding with such a decision, and recommend reversing it in the next budget.

Context

In November 2018, The Honourable Lisa MacLeod, former Minister of Children, Community and Social Services announced a plan to change the definition of disability used for ODSP to more closely align with federal government guidelines, which are narrower than those used for ODSP. Despite cancelling social assistance changes planned for November 2019, the provincial government has produced no further details as to whether the disability definition ODSP will be changed, or to what and when.

Recommendation

Defend Disability recommends that the province commit to retaining the existing definition of disability for ODSP for the following reasons:

- The increasing ODSP caseload is the result of increased need and not the existing definition
- No operationalized federal government definition of disability is suitable for the purposes of ODSP
- Operationalized federal government definitions are flawed and under review
- The conversion of the current systems to apply a new definition will be costly
- Having two disability definitions running side by side due to the grandparenting of existing recipients will create costly additional administration
- Transferring higher-needs ODSP clients to Ontario Works (OW) will put pressure on the OW system that will be costly in terms of administration
- Having a higher-needs caseload on the lower social assistance rates of OW will increase costs and pressure in crisis services, health care and housing services. This in turn will increase homelessness and hallway healthcare just as the government is attempting to reduce both
- A narrower definition will impose incompatible employment requirements on people with disabilities particularly given the ongoing changes to Employment Ontario systems.

Reasons for our recommendation

Concerns about the increasing ODSP caseload do not point to a problem with the definition

In November 2019, the Auditor General highlighted the growing ODSP caseload as an area for further exploration. However, the Auditor General did not suggest that the increased caseload was due to a problem with the definition, nor did she recommend any changes to the definition.

The increase in caseload can be explained by the changing context in which ODSP is delivered. First, Ontario has an aging population. As noted by Statistics Canada, among other sources, the prevalence of disability tends to increase with age.¹ Therefore an increase in the number of people with disabilities (who are thus eligible for ODSP) is to be expected given the change in our demographics. Second, as precarious, low-paid work increases, fewer people qualify for social programs that require prior conventional work experience. Like Ontario, many other provinces have seen notable increases in their disability-related social assistance caseloads.²

No operationalized federal government definition of disability is designed for the purposes of ODSP

ODSP is intended to provide income and employment supports to people with disabilities in financial need. This includes people who are completely unable to work and those whose daily living is partially or temporarily restricted. No federal government program is aimed at supporting the same group. Federal programs are intended for people with disabilities who are working (such as the disability component of

¹ 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>

² Of the provinces with designated disability social assistance programs in the last 10 years, the caseload increased by 63% in Alberta, 59% in BC, 30% in PEI. Meanwhile Quebec and New Brunswick caseloads have remained flat. See Maytree. (2019). *Social Assistance Summaries 2018*. Retrieved from https://maytree.com/wp-content/uploads/Social_Assistance_Summaries_All_Canada.pdf

the Canada Workers Benefit), for tax payers with disability-related costs (the Disability Tax Credit) or for those who contributed to the Canada Pension Plan when working but then acquired a disability that prevented a return to the workforce (Canada Pension Plan Disability). These definitions miss two groups of people with disabilities: 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. ODSP, however, is intended to support all of the aforementioned groups and the definition is designed to identify who would benefit from these supports. Aligning with a federal definition would prevent certain people with disabilities from accessing a program that is intended to meet their needs.

Operationalized federal government definitions are widely seen as flawed and are being reviewed

Since the provincial government announced its plans to align its definition of disability with the federal definition, the federal government has recognized a new definition of disability through the Accessible Canada Act, 2019. The Minister of Employment, Workforce Development and Disability Inclusion has now been tasked with ensuring “a consistent approach to disability inclusion and supports across government” which includes “a definition of disability consistent with the Accessible Canada Act.”³

This reflects the growing concern that federal definitions of disability used prior to the Accessible Canada Act were flawed. For example, an evaluation of Canada Pension Plan Disability (CPPD) by Human Resources and Skills Development Canada found that its definition of disability did not adequately account for people with conditions that are difficult to observe or measure, such as mental health issues and chronic pain, or for those with dynamic disabilities.⁴ This was further reinforced by a 2019 HUMA Committee Report.⁵ Using a definition aligned with CPPD for ODSP would prevent people with dynamic disabilities such as multiple sclerosis, rheumatoid arthritis, mental health issues, and some forms of cancer from accessing the program.

Revisions to the social assistance system are costly and cumbersome and should not be undertaken lightly

Aligning the ODSP definition with the federal definition will require changes to adjudication systems, computer programs, and staff training. Recent changes to the social assistance infrastructure were prohibitively costly. Additional changes should be undertaken only if there are sound and compelling public policy reasons to do so.

Having two disability definitions running side by side due to the grandparenting of existing recipients will create additional administration

If the ministry goes ahead with changing the definition of disability for ODSP, it has indicated it will grandparent existing recipients within the reformed program. Aligning the ODSP definition with federal definitions for new applicants while retaining the existing definition for current recipients means that

³ 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>

⁴ 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>

⁵ Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. (2019). *Report 15 - Taking Action: Improving the Lives of Canadians Living with Episodic Disabilities*. Retrieved from <https://www.ourcommons.ca/DocumentViewer/en/42-1/HUMA/report-15>

two parallel definitions and assessments of disability will have to run concurrently for decades. This will increase costs and complicate the administration of ODSP, particularly for those with episodic disabilities who may not consistently depend on ODSP for support.

Having a high-needs caseload on OW could increase costs at the municipal level

OW is currently administered by municipalities. Many are now struggling with budgetary pressures because, though case volumes have not increased sharply, cases are more complex. Shifting large numbers of people who would have received ODSP on to OW will increase both the volume and the complexity of the caseload, adding further pressures to municipal budgets.⁶

Having a high-needs caseload on the lower social assistance rates of OW could increase the need for health, housing and other services down the line

Aligning with a federal definition of disability would increase the number of people with disability-related needs on OW, which pays significantly lower rates. People with disabilities typically have a higher cost of living than those without disabilities. Paying a higher share of social assistance recipients the lower OW rate might lead to short-term savings for the government, but in the medium to longer term, requiring people with a disability to subsist on OW will exacerbate the existing challenges social assistance recipients face.

Those who become ineligible for ODSP under the new definition will see 37% lower incomes, making it difficult for many to retain housing. Seeking new housing on OW, especially for those facing stigma relating to disabilities, is increasingly challenging.⁷ It is inevitable that many of those forced on to OW would find themselves homeless. Homeless services are considerably costlier than income and disability supports, resulting in increasing expenditures.⁸

People with disabilities who find themselves homeless, or less able to afford both nutritious food and secure housing, or simply less able to access health supports associated with ODSP, would experience deteriorating health. Evidence consistently shows that lower incomes are strongly associated with deteriorating health and increased morbidity for most health conditions.⁹ Ontario's efforts to end hallway healthcare would be undermined by the increasing demand on the healthcare system created by this policy change.

A narrower definition will impose incompatible employment requirements on people with disabilities. Those requirements may be made even more problematic by proposed changes to Employment Ontario systems.

Moving people with disabilities to OW Employment Services — especially services that will be delivered according to the new model currently being tested in three regions — imposes further problems. General employment service providers are less familiar with the rights of persons with disabilities when it comes to employment and accommodations. According to the Canadian Human Rights Commission,

⁶ Toronto Employment & Social Services. (2019). *Budget Notes*, Retrieved from <https://www.toronto.ca/legdocs/mmis/2019/bu/bgrd/backgroundfile-123817.pdf>

⁷ Centre for Equality Rights in Accommodation. (2009). *Sorry, It's Rented: Measuring Discrimination in Toronto's Rental Housing Market*. Retrieved from <http://www.equalityrights.org/docs/CERAFinalReport.pdf>

⁸ Mental Health Commission. (2012). *At Home/Chez Soi*. Interim Report. Retrieved from https://www.mentalhealthcommission.ca/sites/default/files/Housing_At_Home_Interim_Report_ENG_0.pdf

⁹ Chokshi, D.A., and Khullar, D. (2018, October 4). *Health, Income, & Poverty: Where We Are & What Could Help*. (Health Affairs Health Policy Brief). DOI: 10.1377/hpb20180817.901935

40% of employees with disabilities report being stigmatized by their employers.¹⁰ In a recent study of 953 individuals with episodic disabilities, 77% reported that their condition(s) affected their participation in the workforce.¹¹ Simply put, the labour market does not treat disabled people in the same way as most OW recipients. It would be a waste of resources and taxpayers' money, as well as an infringement of the rights of persons with disabilities, to expect Employment Ontario to independently alter these circumstances. Consequently it is unrealistic to expect that system to enable persons with disabilities to obtain work on the same terms as OW recipients.

Conclusion

The evidence shows that:

- the justification for redefining disability is weak;
- operationalized federal definitions of disability are flawed and under review;
- the costs associated with shifting to the new definition are high;
- any fiscal benefits of shifting to the new definition are offset significantly by those high costs;
- provincial objectives including reducing hallway healthcare are undermined by this policy change; and
- the impact on the wellbeing of vulnerable people will be negative and, in many cases, severely so.

Given the evidence, we encourage the minister to abandon the proposed change and retain the current definition of disability under ODSP.

¹⁰ Canadian Human Rights Commission. (n.d.). *Roadblocks on the career path: Challenges faced by persons with disabilities in employment*. A report by the Canadian Human Rights Commission in collaboration with the Canadian Association of Statutory Human Rights Agencies. Retrieved from <https://www.chrc-ccdp.gc.ca/eng/content/report-roadblocks-career-path-challenges-faced-persons-disabilities-employment>

¹¹ Furrie, A.D. (2017). *People with Episodic Health Conditions Speak Out About...* (Final Report for Employment and Social Development Canada). Retrieved from <https://www.ccrw.org/wp-content/uploads/2018/01/Episodic-Survey-Final-Report.pdf>