

April 2018

ONTARIO BUDGET UPDATE



Care and Support Front and Centre in Recent Ontario Budget Announcement

Implications for People with Disabilities, their Families and Government Funded Service Agencies

The word “CARE” was mentioned over 35 times last week as Finance Minister, Charles Souza revealed the “Plan for Care and Opportunity Budget”. As you are likely aware by now, included in this 2018-2019 budget are five (5) related changes that will have a significant impact on the people with disabilities, their families and the not-for-profit governmental funded agencies that support them. These changes include:

1. Improvements to Social Assistance and ODSP
 - a. ODSP Benefit increases;
 - b. Employment Earnings limit increases;
 - c. Asset limits eliminated.
2. Funding increases to the Passport and Special Services at Home (SSAH) Programs.
3. Investment in agencies supporting people with disabilities and their families.
4. Increases in funding for Ontarians with autism spectrum disorder and their families.
5. Increases in funding for special education assessments.

Although the details of these proposed changes are sparse at present, in some cases referred to in no more than a few words in the Budget documents, PooranLaw is cautiously optimistic about the benefit these changes could mean for people with disabilities and their families. In fact, many of these changes are law reform initiatives that PooranLaw has been involved with others in promoting and lobbying the government on for years.

Here's what we know so far:

1. SOCIAL ASSISTANCE AND ODSP

a. Rate Hike - Under the existing ODSP framework, people who are single and living on their own receive a maximum of \$1,151 a month for room and board. The proposed budget would increase that amount by 3% every year for the next 3 years to \$1,256 by 2021. Benefits and allowances, including the Personal Needs Allowances, would also increase by two per cent annually for the next three years. After years with moderate to no increases at all, this is a welcome change for people with disabilities. However, the total ODSP monthly benefit remains painfully low, keeping people with disabilities who rely on ODSP benefits in poverty.

b. Employment Earnings Limits Increase – Existing employment income limits mean that a person who relies on ODSP and has employment earnings will be able to earn more (\$200 more per month) before ODSP income will be clawed back. While this is an important step to removing barriers and disincentives to employment for people with disabilities, the new limit of \$400 per month still pose a barrier to people with disabilities living a life of dignity and financial security.

c. Limits on Savings Eliminated – The budget indicates that limits on cash, liquid assets, and savings in Tax-Free Savings Accounts or Registered Retirement Savings Plans will be eliminated, starting in September of 2018. While some have suggested that this means Henson Trusts are no longer necessary, we would recommend extreme caution in doing away with a Henson Trust as a future planning tool, as the ODSP rules could easily be changed back by an incoming government. In addition, trusts generally provide additional benefits beyond protecting ODSP eligibility including the promotion of long-term financial security and the avoidance of costly, and in some cases the degrading and invasive, process of pursuing guardianship.

This change also creates some ambiguity in relation to the limits on voluntary gifts and payments (currently being \$10,000 per 12-month period for an ODSP recipient). We would have expected this limit to have been eliminated given previous lobbying efforts and the direction that other provinces have gone. It leaves open the question of will there be an impact on a person's ODSP income if a gift is received in excess of \$10,000? Retaining voluntary gift and payment limitations would make little sense if the limits on savings are in fact being eliminated but it remains to be seen how the government will roll these changes out.

PooranLaw will provide further information as these changes are fleshed out in the coming weeks and months. Stay tuned!

2. INVESTMENTS IN PASSPORT AND SPECIAL SERVICES AT HOME

Ontario has committed additional investments of over \$1.4 billion since 2014 to expand developmental services through the Passport Program and Special Services at Home (SSAH) Program. The Budget announcement of new funding for these programs, including a guaranteed minimum Passport allocation of \$5,000 to each person deemed eligible for Passport, is extremely important, particularly for people aging out of school and requiring supports to particulate in the community after graduation. Waiting lists for this funding are long and the hope is that this new funding will help to reduce waiting lists and increase supports for people with disabilities and their families.

PooranLaw welcomes this investment but is concerned that absent a comprehensive plan to support families who use funds to engage workers, this funding alone will not address the needs of people with disabilities and their families. In fact, without real and meaningful guidance, information, and support for families in addition to the funding, the funding could put people at increased risk of liability associated with obligations to workers who are found to be employees and not independent contractors. Furthermore, this funding does nothing to address the increased cost and risk of liability that people receiving more than \$5,000 in Passport, SSAH or other forms of Individualized Funding face as a result of *The Fair Workplaces, Better Jobs Act* (Bill 148). The meagre 15% increase provided to Passport and SSAH recipients (and none at all to recipients of other forms of Individualized Funding) does not come close to covering these new costs related to employees.

PooranLaw continues to urge the Government to create a system of support for families using individualized funding, such as SSAH and Passport, and to give them options for administering their funding in a manner that respects and acknowledges the rights of workers, and at the same time protects families (and the community organizations supporting them) from claims.

3. INVESTMENTS IN GOVERNMENT FUNDED

AGENCIES SUPPORTING PEOPLE WITH DISABILITIES

The Budget also included money for agencies supporting people with disabilities and their families to the tune of \$200 million over three years. Reportedly, this will take the form of long overdue increases to base budgets, outside of obligations related to specific pressures such as Bill 148 and future wage increases generally.

Increases to base funding are long overdue and certainly welcome, however, when the proposed funding is spread across the 350+ agencies in the sector, and when the chronic underfunding for the sector is considered, the reality is that this funding is simply not enough. Nor are vague promises to address chronic issues that have plagued the DS Sector for over a decade sufficient to alleviate the strain agencies currently face, all of which seriously impact the quality and availability of vital services to people with disabilities and their families in the community.

A significant and meaningful commitment to fund legislatively imposed obligations and reasonable cost increases associated with inflation, and wage pressures is imperative to the sustainability of supports for people and families.

4. ONTARIO AUTISM PROGRAM

While the Act has been passed, certain aspects of its application remain unclear, not the least in relation to various exemptions that are currently under review. Until January 1, 2018, the Ministry of Labour is accepting submissions and feedback related to the various regulations under the ESA that currently exempt certain groups of employees from such things as overtime, hours of work and other provisions of the ESA.

Numerous stakeholders from the DS Sector have participated in this review process and filed submissions in relation to these exemptions. We anticipate that regulatory changes will be forthcoming in the weeks and months that follow.

In response to pressure from the Sector, the Government has announced that new funding, for both agencies and families receiving Passport and SSAH, will be released in the new year. It remains to be seen how this funding will be distributed and whether the funding increases will be sufficient to offset these new costs.

PooranLaw will keep you apprised of any developments as they arise.

5. SPECIAL EDUCATION ASSESSMENTS

Finally, the Budget includes commitments to improving outcomes for one in five students with special education needs. The Ontario government is providing over \$250 million in new funding over three years to address the current wait lists for special education assessments and improve access to special education programs and services in schools. This change is vital for parents and children for whom delays in assessment are a barrier to accessing much needed support. Indeed, for many children assessment delayed means education denied. This investment cannot come soon enough!

PooranLaw is pleased to see this emphasis on care in the 2018 Ontario Budget and will

continue to provide updates as policies and the implementation of the Budget progresses. PooranLaw hopes that the highlights detailed above will positively impact the social inclusion, self-actualization and long-term security of individuals with disabilities and their families.

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