



## **DEPARTMENT OF COMMUNITY SERVICES**

### **Services for Persons with Disabilities**

#### **Financial Eligibility Policy**

**Effective: July 1, 2011**

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**1.0 POLICY STATEMENT**

- 1.1 This policy applies to all Services for Persons with Disabilities (SPD) Programs for adults. It does not apply to the Out of Home Support Services Program for Children and Youth and the Direct Family Support Program for Children.
- 1.2 Participation in the (SPD) Program is voluntary. An applicant must be willing to participate in a financial assessment to determine eligibility for the SPD Program.
- 1.3 Financial eligibility criteria for participation in the SPD Program are based on an assessment of the applicant/participant's income and applicable assets, if any.

**2.0 DEFINITIONS**

- 2.1 For SPD policy and program definitions, refer to the *Glossary of Terms*.

**3.0 POLICY OBJECTIVE**

- 3.1 The objective of this policy is to provide the financial eligibility criteria, the eligibility assessment procedures, and the review and appeal procedures related to determination of financial eligibility for participation in the SPD Program.

**4.0 ELIGIBILITY CRITERIA**

- 4.1 Financial assistance provided by the Department of Community Services to an eligible applicant or participant is based on need and is subject to availability of resources.
- 4.2 A Care Coordinator shall conduct an initial assessment and ongoing reassessment of the income and applicable assets, if any, available to an applicant/participant to fund costs associated with participation in the SPD Program.
- 4.3 When an applicant is eligible for the SPD Program and financial assistance is not available, the applicant's name shall be placed on a Wait List, upon their request, as outlined in Section 8 of the *SPD Program Policy*.

## **5.0 FINANCIAL APPLICATION AND ASSESSMENT PROCESS**

### **5.1 Mandatory Program Application**

- 5.1.1 All applicants, including private pay applicants as outlined in section 5.10, must complete the application for the SPD Program *Program Application (SPD – 401)*.
- 5.1.2 A person who does not complete the financial application is ineligible for the SPD Program.
- 5.1.3 An applicant must provide written consent for the Department to obtain the financial information of the applicant from a third party and to share financial information with other agencies involved in the applicant's support, as may be necessary *Program Consent (SPD – 417)*.
- 5.1.4 Applicants who are receiving Adult Protection Services, or others who require an emergency admission to an SPD program option, may complete the program application following placement.

### **5.2 Application Completion**

- 5.2.1 The Care Coordinator is responsible for determining the financial eligibility of applicants to the SPD Program, and for determining the ongoing eligibility for financial assistance of participants in the SPD Program.
- 5.2.2 When a referral for admission to the SPD Program is made by anyone other than the intended participant, a Care Coordinator must contact the intended participant to ensure that the intended participant is:
- a) aware of the application; and is
  - b) willing to participate in an eligibility assessment process.
- 5.2.3 An applicant/participant must provide all financial information required by the Care Coordinator to make a determination of financial eligibility.
- 5.2.4 Failure to provide all required documents or refusal to participate in the financial assessment process will result in immediate denial of financial assistance and assessment for eligibility for the SPD Program.

### **5.3 Financial Assessment**

5.3.1 When completing a financial assessment, a Care Coordinator shall:

- a) review all financial information presented by the applicant/participant;
- b) assess the income and applicable assets, if any, of the applicant/participant; and
- c) consider all costs associated with the applicant/participant's support needs, including items of special requirement (see *SPD Special Needs Policy*).

5.3.2 Assets of the applicant/participant, other than those outlined in section 5.4, shall not be considered in the financial assessment process.

### **5.4 Applicable Assets**

5.4.1 In determining the financial eligibility of an applicant or participant, a Care Coordinator shall consider all applicable assets of an applicant or participant.

5.4.2 An applicant or participant who has received or will receive payment of money through a court order or through a liability award or settlement (except for those listed in section 5.5.6 and 5.57) for the cost of their care, support and accommodations, is ineligible for assistance in the form of money until the money is expended on the full cost of their care, support and accommodations.

5.4.3 The per diem rate or the full cost of care, support and accommodations shall be charged to an applicant or participant who is provided for by a court order or liability award or settlement for their cost of care, support and accommodations.

5.4.4 A participant's financial eligibility may be re-assessed after the money received through a court order or liability award or settlement for the participant's cost of care, support and accommodations is expended, and during the re-assessment any remaining monies awarded for damages other than future care, such as wage loss or for pain and suffering will be considered part of the participant's income.

## 5.5 Income

- 5.5.1 An applicant/participant shall apply all of their income, with the exception of the income sources outlined in section 5.5.6, towards the costs of supports provided by the SPD Program.
- 5.5.2 An applicant/participant shall apply for all income, including pension income, for which they are eligible, and shall apply for the maximum level of income for which they are eligible.
- 5.5.3 The Care Coordinator shall include the following income sources in the income assessment as chargeable income:
- a) 100% of unearned income;
  - b) 100% of net wages of the applicant or participant, minus \$300 and 30% of the remainder a month (see section 5.5.5);
  - c) 100% of training allowance of the applicant or participant minus \$300 a month;
  - d) 100% of the sum set aside in trust for the benefit of the applicant/participant by a court at the request of an applicant or participant or with the consent of an applicant or participant; and
  - e) 100% of income from an estate or trust.
- 5.5.4 Every person to whom assistance is paid in trust for the benefit of an applicant or participant pursuant to the *Social Assistance Act* shall submit such information as a Care Coordinator may require regarding the administration of the trust money.
- 5.5.5 An applicant/participant who is engaged in employment shall retain the first \$300 of their net monthly earned income, plus 30% of the remaining net monthly earned income as an employment incentive. The balance of their earnings shall be applied to their SPD support costs.
- 5.5.6 Payments from the following sources are not included in the income assessment:
- a) goods and services tax credit (GST) paid under the *Income Tax Act* (Canada);
  - b) Nova Scotia Affordable Living Tax Credit under the *Income Tax Act*;

- c) income tax refunds;
- d) Working Income Tax Benefit (WITB);
- e) provincial low-income fuel assistance program and Federal Relief for Heating Expenses Program;
- f) Registered Disability Savings Plan Payments (RDSP) or any income from an RDSP;
- g) Registered Education Savings Plan Payments (RESP);
- h) payments under the Department of Health & Wellness Caregiver Benefit Program;
- i) payments under a victims compensation program paid by a federal or provincial government;
- j) payments to a victim of abuse by a church organization in compliance with a court order or under a victims compensation program;
- k) payments by a provincial or federal government either monthly or in a lump sum to victims or survivors of abuse to redress or compensate an injury or harm in respect to a government program or services.
- l) honorariums provided to persons serving on a board of an agency or commission;
- m) earned income of a dependent child(ren) as long as the dependent child(ren) is attending an educational program not designated for student loan purposes;
- n) the Canada Child Tax Benefit paid under the *Income Tax Act* (Canada), including all of the following;
  - i. the national child benefit supplement,
  - ii. the child tax benefit,
  - iii. payments under the Nova Scotia Child Benefit Program under the *Income Tax Act*,
  - iv. the child disability benefit
- o) Universal Child Care Benefit paid under the *Income Tax Act* (Canada);

- p) adoption subsidy payment under the *Children and Family Services Act*;
- q) payments made in support of a foster child paid under the *Children and Family Services Act*;
- r) bursaries, scholarships, and stipends received for the purpose of assisting with the costs associated with attending an approved educational program.

5.5.7 Financial compensation received from the following sources will not be considered income in determining initial and ongoing eligibility. Any money generated from the compensation shall be considered income in the month in which it is received:

- a) the Memorandum of Understanding regarding Compensation for Survivors of Institutional Abuse;
- b) a payment other than a payment for loss of income or loss of support pursuant to:
  - a. the 1986 - 1990 Hepatitis C Settlement Agreement; or
  - b. the federal/provincial/territorial assistance program of HIV Secondarily Infected Persons;
- c) Pre-1986/Post-1990 Hepatitis C Settlement Agreement; and
- d) a payment as a Merchant Navy Veteran or as a surviving spouse of a Merchant Navy Veteran for post-war benefits.

5.5.8 Participants in the SPD Program who receive retroactive payments of income from any source, other than those listed in section 5.5.6, shall apply the payments towards support costs previously incurred and ongoing support costs, which have been paid by the Department of Community Services. For any retroactive payments from employment sources, the appropriate employment incentives shall be applied in accordance with section 5.5.5.

## **5.6 Budget Development for Eligible Participants**

5.6.1 An initial monthly budget shall be developed for an eligible participant by a Care Coordinator. It will be recalculated on an on-going basis based on the participant's circumstances. *Budget (SPD-436)*.



5.6.2 Assistance shall be provided to a participant on a monthly budget deficit system. Assessed and approved needs must exceed the income of an applicant/participant in order to receive financial assistance. Financial assistance in the amount by which needs exceed income will be granted.

## 5.7 Initial and On-going Budget Calculations

5.7.1 In determining initial eligibility for financial assistance to cover or subsidize the costs related to the services and supports provided by the SPD Program, the following will be included in the applicant's monthly budget calculations:

- a) approved per diems for residential programs or approved SPD basic needs rates, which includes a shelter or boarding rate and personal allowance; and
- b) approved expenses related to special needs/services, as outlined in the *SPD Special Needs Policy*; and a
- c) Personal Use Allowance (Comforts Allowance) as outlined in the *SPD Special Needs Policy*.

5.7.2 A Care Coordinator shall prepare a participant's monthly budget in the following manner:

- a) document the participant's total approved expenses, which consist of approved services and supports provided by the SPD Program and the associated costs, taking into consideration any sharing of costs;
- b) document and subtract the participant's chargeable income from the participant's total approved costs; and
- c) determine the resulting balance, which will be either a:
  - i. budget deficit, which is the amount of financial assistance payable by Department of Community Services on behalf of the participant; or a
  - ii. budget surplus, which means that the participant is ineligible for financial assistance from Department of Community Services *Budget (SPD - 436)*.

5.7.3 When a SPD participant shares accommodations, either as roommates or as a couple, each will have their own budget reflecting their:

- personal allowance;
- special needs; and
- Personal Use Allowance (Comforts Allowance).

Expenses associated with the shelter costs will be shared. Depending on their circumstances, hours of support and support services may also be shared. Each SPD participant will contribute their own income, if any, to their individual budget.

5.7.4 In circumstances when an SPD participant shares their living accommodations with another individual who is not a participant in the SPD Program and is not their spouse, the SPD budget will be built to reflect the participant's:

- personal allowance;
- special needs;
- Personal Use Allowance (Comforts Allowance);
- hours of support; and
- support services.

Expenses associated with shelter costs will be shared. The SPD participant will contribute their income, if any, to their individual budget.

5.7.5 In circumstances where an SPD participant shares living accommodations with a spouse who is not an SPD participant, 70% of the spouse's net monthly wages, minus the non-supported employment incentive, will be applied to the total budget of the SPD participant. If the spouse is engaged in supported employment, the SPD employment incentive will apply. The budget deficit, if any, will be issued to the participant.

5.7.6 For budget purposes a participant who lives in a relationship of interdependence with another adult is not considered a spouse until the arrangement is of 12 months duration or until the birth of a child.

## **5.8 Ongoing Eligibility for Financial Assistance**

5.8.1 A participant continues to be eligible for ongoing financial assistance as long as the participant's:

- a) financial circumstances allow; and
- b) program eligibility continues.

- 5.8.2 The Care Coordinator will complete a reassessment of both the participant's financial eligibility and level of support eligibility during the annual re-assessment or review process.
- 5.8.3 A participant must inform the Care Coordinator when, following their initial financial assessment, there is any change in their income or applicable assets.
- 5.8.4 Failure to disclose information as required in section 5.2.3 and section 5.8.3 may result in a reassessment of the participant's financial obligation and may result in a change in or termination of financial assistance.
- 5.8.5 A financial eligibility review may be undertaken at any time when the Department receives information related to the participant's income or applicable assets, which may affect the level of financial assistance provided to the participant.
- 5.8.6 The participant, or any other person, may be the subject of legal action by the Province, if at any time the participant or other person:
- a) wilfully withholds information about a participant's income or applicable assets;
  - b) under-reports the amount of a participant's income or applicable assets; or
  - c) provides false or misleading information on a participant's income, which results in an participant obtaining a level of financial assistance to which the participant would not otherwise be entitled.

## **5.9 Ineligibility for Financial Assistance**

- 5.9.1 An applicant/participant who has received or will receive payment of money through a court order or through a liability award or settlement for the cost of their care, support and accommodations, is ineligible for assistance in the form of money until the money is expended on the full cost of their care, support and accommodations. The applicant/participant will be considered a private payer and will be responsible the full cost of their care, support and accommodations, whether in their own home or in a residential placement.
- 5.9.2 Payments which an applicant/participant may receive and which will not be considered to be income are found in section 5.5.6 and 5.5.7.

- 5.9.3 An applicant/participant who has received or will receive payment of money through a court order or through a liability award or settlement (except for those listed in section 5.5.6 and 5.5.7) for the cost of their care, support and accommodations, is ineligible for assistance in the form of money until the money is expended on the full cost of their care, support and accommodations.
- 5.9.4 An applicant/participant will be ineligible for financial assistance if they are provided for under the mandate(s) of:
- a) Veterans Affairs Canada;
  - b) Workers Compensation Board;
  - c) the Government of Canada (e.g. First Nations persons living on Reserve in Nova Scotia with a band number);
  - d) any other statute.

## **5.10 Private Pay**

- 5.10.1 The Department of Community Services requires all private paying individuals to complete an application for eligibility for admission into a SPD funded home or community based option. The Department will not recognize arrangements negotiated privately between an individual applicant and Service Provider.
- 5.10.2 An applicant who has been assessed by a Care Coordinator as eligible to receive a level of support provided by the SPD Program, but ineligible for financial assistance from the Department of Community Services, may be admitted to a Community Home, ARC/RRC, or may receive Community Based Option support as a private payer.
- 5.10.3 A participant who becomes financially ineligible for the SPD Program may choose to pay privately for their supports and remain in the funded home or community based option (see section 12.4 of the *SPD Program Policy*).
- 5.10.4 A private paying participant residing in a Community Home, ARC/RRC, or receiving Community Based Option support may apply for financial assistance for their support costs from the Department of Community Services, based on a reduction in income or applicable assets.
- 5.10.5 A Care Coordinator must complete a support level assessment and financial assessment of a private payer upon receipt of a request under section 5.10.4 from the private payer.

## 6.0 APPEAL PROCESS

### 6.1 Right to Appeal

6.1.1 An applicant/participant has the right to appeal any decision made by the Department in relation to their application for or receipt of assistance under the *Social Assistance Act*. The legislative authority for this process is Section 12 of the *Employment Support and Income Assistance Act*, as referenced in Section 19 of the *Social Assistance Act*.

All requests for an appeal, except as indicated in 6.1.2 will be addressed in accordance with the appeal process set out in the *Employment Support and Income Assistance Act* and the *Assistance Appeal Regulations*.

6.1.2 Refer to section 10 of the *SPD Support Level Eligibility Policy*, which describes the process for a request for review of a support level decision.

6.1.3 The Care Coordinator will send the written decision relating to the application for assistance or receipt of assistance to the applicant/participant, and will notify the applicant/participant of their right to appeal that decision within thirty (30) days from the date they receive the decision. A pamphlet that defines the steps of the appeal in plain language, including an application for appeal, will accompany the decision. *Appeal Request Form*.

6.1.4 The decision will include a summary of the facts and an explanation of the legislation, regulations and policy relied upon. This provides the opportunity for all parties to review and understand the rationale behind a decision prior to an appeal or request for an administrative review being filed.

### 6.2 Commencing an Appeal

6.2.1 The request for an appeal must be submitted by the applicant/participant to any office of the Department of Community Services within 30 business days from the date that the applicant/participant received the original decision.

6.2.2 The request must be made in writing preferably in the approved form and must include:

- a) the decision for which the appeal is requested,
- b) the reason for the appeal, and
- c) all the other information requested on the form.

### **6.3 Administrative Review**

- 6.3.1 The first step in the appeal process is an administrative review, which will be completed within ten (10) business days of receiving the appeal from an appellant.
- 6.3.2 The Regional Administrator or designate must designate a Services for Persons with Disabilities Supervisor or District Manager who was not involved in the original decision to conduct the administrative review.
- 6.3.3 The reviewer must examine all written material submitted to ensure that the decision being reviewed is consistent with the legislation, regulations and policy, and that the appellant's request is given a fair and timely review. There is no meeting.
- 6.3.4 The reviewer shall:
- a) uphold, vary or reverse the original decision; and
  - b) immediately send the appellant the reasons in writing for upholding, varying or reversing the original decision.
- 6.3.5 The appellant must advise the Regional Administrator or designate in writing, within 10 days of receiving the administrative review decision, if the appellant wants the appeal to proceed to a hearing before an Appeal Board.
- 6.3.6 If an appellant has not requested an appeal hearing within ten (10) business days of their receipt of the administrative review decision, the Appeals Unit may close the file.

### **6.4 Appeal Hearings**

- 6.4.1 When an appellant advises that they wish to proceed to a hearing, the appeal shall be set down for hearing before an Appeal Board. The process will be governed by the *Employment Support and Income Assistance Act* and the *Assistance Appeal Regulations*.
- 6.4.2 The Appeals Unit coordinates the appeal and sends notification of the date, time and place of the hearing by registered mail. The regional office will also provide documentation for the Appeal Board to the Appeals Unit. The appellant shall be notified that if they do not attend the hearing or send a representative, the appeal will be heard in their absence unless they have requested an alternative date. *Appeal Request Form*.

- 6.4.3 If an appellant wishes to have a hearing but cannot attend, they can either request that the appeal hearing be rescheduled or indicate that they would like the option of a hearing utilizing the telephone.
- 6.4.4 An appellant has the right to be assisted by a representative throughout the appeal process. Prior to appeal information being sent to a representative Departmental staff should obtain consent, preferably written, from the appellant to discuss their case with the representative.

## **6.5 Procedures for Appeal Board Hearings**

- 6.5.1 At the beginning of the hearing, Departmental staff will ask the appellant for copies of any documents that they plan to submit to the Appeal Board during the hearing and if they will have any witnesses.
- 6.5.2 In lieu of attending the hearing, the appellant may send a representative to the appeal hearing. That person will provide the Appeal Board with written proof that the appellant authorizes them to represent the appellant at the hearing.
- 6.5.3 If counsel is representing the appellant at the hearing, the person responsible for coordinating appeals for the Region will send a copy of the appeals report to the counsel, provided they are admitted to the bar. If the representative is an articled clerk, the Department should send the appeals report to the principal lawyer for the articled clerk as well or confirm that the clerk is acting on their behalf.
- 6.5.4 The person responsible for coordinating appeals for the Region will work with the Appeals Unit to identify the person who will represent the Department at the Appeal Board hearing.
- 6.5.5 If counsel is required to represent the Department, the person responsible for coordinating appeals for the Region will consult with the Department of Justice to engage counsel. This person will then advise the Appeal Unit that counsel has been retained.
- 6.5.6 The Appeal Board shall hear the appeal and render a decision within forty-five (45) days of the date that the Regional Administrator received the appellant's written notice in accordance with subsection 6 (2). Once the hearing is held, the Appeal Board has seven (7) days to render its decision. The hearing must therefore be held within 38 days of receipt of the written notice.

**6.6 Interpreting Dates**

- 6.1 Subsection 2(2) of the Assistance Appeals Regulation defines day as not including Saturdays or Holidays. ("Business days" - holidays include Sundays).
- 6.2 The date a decision is communicated or an application for a review is received is not counted as the start date for the required time line. The time line for completion begins on the next day.

**7.0 APPLICATION**

- 7.1 This policy applies to all SPD staff, applicants, participants and their families and any person acting on their behalf.

**8.0 ACCOUNTABILITY**

- 8.1 The Executive Director is responsible for ensuring that the program achieves the objectives for which it was created, and is delivered within a fiscally sustainable manner.
- 8.2 Regional Administrators are responsible for putting this policy in place and ensuring compliance within their respective areas of responsibility, and the resources made available.
- 8.3 Managers and supervisors are responsible for complying with the policy within their respective areas of responsibility and adequately preparing their employees to carry out their respective functions.

**9.0 MONITORING**

- 9.1 The Director, Services for Persons with Disabilities, is responsible for implementing appropriate mechanisms to ensure monitoring and compliance with this policy.
- 9.2 Regional Administrators are responsible for regularly monitoring and reporting on compliance with this policy.



# SPD Financial Eligibility Policy

## SPD Forms List for SPD Policy Roll-out

June 2011

SPD-401      Program Application

SPD-417      Program Consent

SPD-436      Budget

APP-      Appeal Request Form

**Letter Templates:**                      Ineligibility Notification Letter Template