



## FLEMINGDON COMMUNITY LEGAL SERVICES

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*This Newsletter provides information about Flemingdon Community Legal Services and issues of interest to our community. For specific legal advice, please consult the Clinic or a Legal Advisor.*

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### Tribute to Gordon Stevenson

*It was a traumatic time at FCLS as our long time employee Gordon Stevenson was diagnosed with pancreatic cancer in late August 2010. After a valiant battle he succumbed to the disease on December 6, 2010.*

*Gordon had commenced employment at FCLS as a staff lawyer in July 1988. Though in the first few years he worked in a number of areas of law by the mid 90's he was specializing in landlord and tenant law. Gordon was the team leader of the LL/T team where he supervised the staff work and gave his legal opinions on all our landlord and*

*tenant files. His door was always open for emergency matters.*

*Gordon worked on many difficult cases including the Cosburn case where the superintendent left the country with the rent deposits of over 100 prospective tenants and 2 Secord Avenue where hundreds of tenants were left homeless for many days due to an explosion underneath the building.*

*No matter how difficult or upset the clients Gordon could be counted upon to do his professional best to ensure that they did not lose their housing.*

*On top of all this responsibility Gordon was also the acting executive director in my absence. I never worried about the well being of the clinic when Gordon was in charge.*

*For the last 15 years or so Gordon would bring his dogs to the clinic. First was Buster who loved the attention. Then we had Maddie who enjoyed her treats (until I was told no more –she was putting on weight!). It was a great joy to be able to spend a few minutes with the dogs in order to calm your mind and spirit after a difficult client interview.*

*Gordon leaves behind his wife, Judy, sister Leah Claire and his step children Adam and Carley.*

*He will be tremendously missed by the Board and staff at FCLS and by the many clients who benefited from his legal expertise over the past twenty two years.*

*- Marjorie Hiley, Executive Director*

**A Win for the Legal Clinics – concerning Alcohol and Addictions – Sect 5(2) of the ODSP Act**

With the introduction of the ODSP Act in 1998, many people were not eligible for disability benefits due to a very small section of the Act. Section 5(2) denied benefits if the only medical condition and related impairments were directly related to a complete dependence on an addiction to alcohol or non prescribed drugs or other addictive substances and this addiction interfered with or restricted their activities of daily living.

In 2006, with the assistance of the Sudbury Legal Clinic, Mr. Robert Tranchemontagne and Mr. Norman Werbeski filed their first appeal to the Social Benefits Tribunal stating that the legislation and specifically Section 5(2) was discriminatory and violated their rights under the Human Rights Code. In September 2010 the Superior Court of Canada

released their decision (Ontario (Director, Disability Support Program) v. Tranchemontagne, 2010 ONCA 593, 2010 ONCA 593 (CanLII), [2010] O.J. No. 3812 (QL), Court File No. C50970 (Simmons, Cronk and Rouleau JJ.A.). The Court found that the substance addiction provision in ODSPA s. 5(2) is discriminatory, is now "final and binding". As a result, s. 5(2) "no longer applies".

Since the Divisional Court decision in *Tranchemontagne* was issued in 2009, ODSP has been adjudicating applications involving alcohol or drug addictions under ODSPA s. 4 (1). However, applicants with addictions who were found eligible as persons with a disability were also informed that their ongoing eligibility could be affected by the outcome of this Superior Court of Appeal proceeding.

With the release of this Superior Court of Canada decision, the

Disability Adjudication Unit will be sending letters that the Province's appeal was dismissed and that their eligibility will **not** be reviewed because of the court case, although people who already have review dates set will still be subject to medical reassessment. (Notes from the Clinic Resource Office, September 2010).



**Medical Reviews - Ontario Disability Support Program**

In the year 2008 to 2009, 34000 people applied for Ontario Disability Support Program income benefits. Once the Disability Adjudication Unit (DAU) approves an application for disability benefits a decision is made to grant income support benefits:

- 1) until a person turns 65 or
  - 2) there should be a medical review (normally in two or five years).
- The December 2009 Auditor General's Report noted that for the past several years, medical reviews have not been completed due to the high number of people applying for

ODSP benefits. He also noted that that there were 37,000 individuals who should have had their file medically reviewed.

Since March 2009 the DAU made a commitment to begin these medical reviews. Currently, 100 people a month are being sent a new disability application. The application is identical to the original application, however in new colours. A person must return the application within 90 days and it must be signed by their doctor. It is important that the doctor include all new medical reports that support the disability and give an opinion that the person has improved,

stayed the same or become worse since the original application. Also any new problems or medical conditions should be included.

The local ODSP office will also send notice that ODSP income support and benefits will be provided for the next 90 days. If a person's medical review is denied one will be advised to apply for Ontario Works for future benefits.

If the medical review is denied, **seek legal advice**. One has 30 days to file a written Request for Internal Review to start the appeal process.

## Preparing for a Social Assistance Review

A long awaited announcement from the Ontario Government was made November 30, 2010 to introduce the **Social Assistance Review** to begin January 2011 and to be completed by June 2012. The review is to be lead by the Honourable Frances Lankin, P.C., (past Cabinet Minister for the NDP and past President of the United Way of Toronto) and Dr. Munir Sheikh, Canada's former Chief Statistician. The review's mandate is to make recommendations for change to Ontario's Social Assistance programs.

So, why is this important to all people living in Ontario even if not on social assistance and why should we become involved in this review?

### Background

In the fall of 2008, the Provincial government began a process to review the issue of poverty in Ontario. Minister Deb Matthews and several members of government travelled the province to consult with people asking what would bring change to Ontario. Currently, 830,000 people rely on social assistance and disability benefits and many, many more are considered "working poor". As a result of this consultation, the Poverty Reduction Act was passed into legislation on May 6, 2009 and the government is now required to

set 5 year targets to measure the success of their poverty reduction strategies, report yearly and consult regularly. The government's first report<sup>1</sup> was published in December 2009. The first year was hampered by a downturn in the global economy which affected many families. Nevertheless, the Ontario government increased payments to the Ontario Child Tax Benefit program, increased Ontario Works and Ontario Disability payments by 2%, increased the minimum wage to \$9.50 in 2009 (\$10.25 in 2010), and made further investments in housing, rent bank funding and summer jobs under the Youth Opportunities program. They also expanded the Children in Need dental programs and increased funding for kindergarten and after school programs. Many of these programs are directly related to reducing child poverty.

In 2009 the government also appointed a Social Assistance Review Advisory Council (SARAC). In February 2010 the Council released 13 short term recommendations and proposed rule changes to the current Ontario Works and Ontario Disability Support Program. In May 2010 they released their final report: "Recommendations for an Ontario Income Security Review". The Council recommended a "comprehensive review" of all income security programs affecting low income people in Ontario. This review should become a broad based

review of federal, provincial and municipal employment, educational and financial security programs affecting all adults.

On November 29, 2010 the "25 in 5 Network for Poverty Reduction" coalition released their second report on the Government's progress for year two of the government's Poverty Reduction Strategy. The 25-in-5 Network notes that "poverty costs the residents of Ontario \$32 billion to \$38 billion a year"<sup>2</sup>. The Coalition is urging the government not to give up on the poverty reduction strategies that were introduced in 2009. On first impression this \$38 billion seems to be a severe burden on the taxpayer, however, the network recommends that if the money was "properly spent, what this money would ultimately buy is a healthier, better educated and more productive workforce..."<sup>3</sup>.

The new Social Assistance Review has 4 key messages that seem to mirror the 25 in 5 recommendations.

The review should include:

- a process that is more effective at getting people into jobs
- a program that is easier to understand
- is more accountable to the taxpayers; and
- works better with other federal, provincial and municipal income security

<sup>1</sup> [Building a Resilient Ontario](#): From Poverty Reduction to Economic Opportunity, Year Two of Ontario's Poverty Reduction Strategy. 25 in 5 Network for Poverty Reduction. November 29, 2010.

<sup>2</sup> [Building a Resilient Ontario](#): From Poverty Reduction to Economic Opportunity, Year Two of Ontario's Poverty Reduction Strategy. 25 in 5 Network for Poverty Reduction. November 29, 2010.

<sup>3</sup> Ontario's Poverty Reduction Strategy, Government Announcement November 30, 2010

## How Can We Become Involved?

(Continued from page 3)

Since 2008, the Flemingdon Community Legal Services Poverty Reduction Strategy has involved participation in numerous projects including participation in the ODSP Recipient Support group at Flemingdon Health Centre, development of the Flemingdon Park Food Bank, development of the LIP Settlement agency program, assisting with the incorporations of several non profit community agencies, and sitting on Boards of Directors of local agencies.

The clinic has also reconstructed our website ([www.flemingdonlegal.org](http://www.flemingdonlegal.org)) to facilitate communication and provide legal information.

Going forward into 2011 we are asking for your participation so that the Commission considers your opinions and lived experiences:

- 1) Review the SARAC recommendations from February and May 2010. Review the 25 in 5 report "Building a Resilient Ontario".
  - a. Be creative and forward thinking.
  - b. Send your thoughts, stories and recommendations to the clinic: attention of Catherine Manson, Community Legal Worker.

- 2) Talk to your friends and neighbours. Write letters to the Editors of your local newspapers. Participate in local focus groups (more to follow).
- 3) Write letters to your local Federal, Provincial members of parliament and Municipal councillors – ensure that they are willing to work co-operatively to bring about recommended changes.
- 4) Participate in the Provincial election (fall of 2011), speak to candidates, attend meetings, have your recommendations heard.

## Changes to the Special Diet Allowance

Good News –on November 30<sup>th</sup> the government announced it will not cancel the Special Diet Allowance. However there will be some changes to the medical conditions based on the recommendations of the Special Diet Expert Review Committee's report, the Auditor's General Report and the Human Rights Tribunal Order in Council. The Special Diet Allowance will also be included in the Social Assistance Review.

### *Impact of these changes*

- As some conditions will be cancelled, some people may no longer be eligible for OW/ODSP income support
- On February 1, 2011 the government released the new Schedule – a sample of the new rates = Diabetes -\$81; Hypertension - \$86; Food Allergy –Dairy – depending on age \$32 to \$47; Crohns – Colitis - \$191; HIV Aids - \$191; Unintended Weight Loss greater than 5% -\$191 and greater than 10% - \$242.

### *Changes to the program include:*

- New Schedule will begin April 1, 2011
- New Applications were available as of February 2011
- Every person must reapply for Special Diet Allowance
- All current payments will end as of July 31, 2011
- Every person will be required to sign a consent to release medical information to support the application
- Ministry will implement a new tracking method and to identify possible trends and concerns
- There is still a cap of \$250 per person, per month based on multiple conditions

### *Conditions no longer covered:*

1. chronic constipation
2. congenital abnormalities of the metabolic type,
3. diverticulum, diverticulitis,
4. food allergies – soya and eggs,
5. gout,
6. malabsorption, macrocytic and microcytic anaemia,
7. post-gastric surgery,
8. pre-diabetes,
9. renal failure – pre-dialysis

C G U O W U S D E P R S N B M U S C M U K M  
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**WORD FIND**

**ODSP**

- |              |                        |                         |                        |
|--------------|------------------------|-------------------------|------------------------|
| Appeal       | Medical Transportation | Ontario Works           | Internal Review        |
| Benefit Unit | Necessities            | Surgical Supplies       | Legal Aid Ontario      |
| CSUMB        | Notice of Decision     | Employment Assistance   | Mandatory Special      |
| Dental Card  | Diabetic Supplies      | Participation Agreement | Ontario Child Benefits |



**UPDATES to ODSP**

**Modernization Process of ODSP offices**

In September 2010 the Ministry of Community and Social Services reported a caseload of 275,980 cases across the province and 382,989 people were receiving assistance from the Ontario Disability Support Program. The ODSP support teams were very aware of problems arising from communication problems, casework caseloads, staff burnout and other such problems. A concerted effort has been made to improve the quality of service being provided by the ODSP caseworkers across the province.

Starting November 15, 2010 there have been major changes to the operation and function of the local Ontario Disability Support Program offices in Toronto. These same changes are affecting local offices across the Province over the next 2 years.

Every person affected by these changes has received a letter from their local office providing them with the name and telephone number of their new caseworker.

Each local office is requesting feedback and evaluation of the new system. You can direct your written comments on the new system to the "ODSP Regional Manager" and send

the letter to your local office. FCLS would appreciate a copy of your comments if you are willing to share your thoughts.

*Changes include:*

- Caseloads have been realigned by postal code, not by last name
- Each benefit unit now has 1 caseworker
- Each caseworker now has a caseload of 240 to 260 benefit units instead of 750
- Each caseworker is to be trained to provide employment supports
- A New Family Support Worker position to help with custody and support applications

# ODSP

## Recipient Support Groups

Having problems applying for, or receiving **ODSP/OW**?  
 Unable to learn about the benefits to which you are entitled??  
 Not getting timely service when you contact your local office???

## Join Us

<p><b>FLEMINGDON HEALTH CENTRE</b>                  10 Gateway Blvd., Don Mills Rd. &amp; Overlea Blvd.  <b>The Second Friday</b> of every month: 1:00 p.m. - 3:00 p.m.</p>
<p><b>QUEEN WEST HEALTH CENTRE</b>                  168 Bathurst Street, south of Queen Street  <b>The Third Friday</b> of every month: 1:00 p.m. - 3:00 p.m.</p>
<p><b>THE 519 COMMUNITY CENTRE</b>                  519 Church Street, just north of Wellesley  <b>The Last Friday</b> of every month: 1:00 p.m. - 3:00 p.m.</p>

[www.odspgroups.com](http://www.odspgroups.com)



**CLEONET WEBINARS:**

Check out Catherine's OW and ODSP webinars:

1. ODSP Disability Determination and Application
2. OW and ODSP Applications and Appeals
3. OW and ODSP Rights and Benefits Overview

Go to <http://www.cleonet.ca/training>

2010 - 2011 Income Support Rates	
1% increase in Nov/Dec 2010	
<ul style="list-style-type: none"> <li>• <b>Ontario Works</b></li> <li>• Single</li> <li>• Basic Needs \$224</li> <li>• Shelter <u>\$368</u></li> <li>• <u>\$592</u></li> <li>• Couple</li> <li>• Basic Needs \$443</li> <li>• Shelter <u>\$578</u></li> <li>• <u>\$1021</u></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Ontario Disability Support Program</b></li> <li>• Single</li> <li>• Basic Needs \$584</li> <li>• Shelter <u>\$469</u></li> <li>• <u>\$1053</u></li> <li>• Couple (1 disabled) (both dis*)</li> <li>• Basic Needs \$864 \$1165</li> <li>• Shelter <u>\$737</u> <u>\$ 737</u></li> <li>• <u>\$ 1601</u> <u>\$1982</u></li> <li>• *Double Disabled Couple</li> <li>• <b>Actual Entitlement \$1760</b></li> </ul>

Revised: November 4, 2010

**MEMBERSHIP APPLICATION OR  
RENEWAL FORM OF F.C.L.S.**



The Objectives and Goals of F.C.L.S. are:

1. To establish, maintain and operate a community legal clinic within and for the benefit of low income residents of the Flemingdon Park Community and its environs and the Deaf Community of the City of Toronto.
2. To provide legal advice, legal assistance, legal representation, legal education, and such other legal services that is consistent with the policies and priorities of Flemingdon Community Legal Services to both individuals and groups with the Community.
3. To serve residents of the Community who require assistance in legal matters and who are unable to otherwise obtain legal services from private lawyers.
4. To ensure that Flemingdon Community Legal Services continues to provide legal services relevant to the Community and continues to be a known and trusted resource within the Community.
5. To encourage members of the Community to work with one another to foster collective solutions to legal problems and social injustices by way of legal education and group organization.
6. To identify elements of the law that requires reform in order to better address the legal needs of members of the Community.

A member must live and /or work in the geographic catchment area of Flemingdon Community Legal Services. Membership applications must be submitted 10 days prior to the Annual General Meeting to entitle a person to vote at the Annual General Meeting. Membership is free but must be renewed each five (5) years.

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**PLEASE PRINT**

I, \_\_\_\_\_, hereby affirm that I agree with the above goals and objectives and that I would like to be a member of Flemingdon Community Legal Services.

There is no fee. Membership is good for five (5) years.

I would be interested in participating: (Yes/No)

The Board \_\_\_\_\_ A Committee \_\_\_\_\_ A Volunteer \_\_\_\_\_

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 Postal Code: \_\_\_\_\_ (Cell) \_\_\_\_\_

Date: \_\_\_\_\_ Email \_\_\_\_\_  
 Signature: \_\_\_\_\_