

# Community Legal

## Facts/*FAX*

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## New Rules mean Zero Tolerance for Welfare Fraud

### LIFETIME BAN

Don't get fooled. April 1<sup>st</sup> will usher in a strict, zero-tolerance policy on welfare fraud. The zero tolerance policy is the first of its kind in Canada, and a key platform in provincial welfare reforms. While several municipal governments in the province, including Hamilton-Wentworth, have raised concerns about implementation of the policy, it appears that anyone convicted of welfare fraud will be permanently banned from receiving benefits in the future.

Prior to the new regulations coming into effect, anyone convicted of welfare fraud was cut-off from receiving benefits for a period of three months; for a second offence, that recipient would be cut-off for an additional six months. In Hamilton-Wentworth there have been no reported cases of anyone being convicted twice.



Some observers have argued that welfare fraud is a symptom of desperation and not of criminal intent. There are concerns within the legal clinic community and among other social service agencies that the zero tolerance policy could also have the unintended effect of victimizing individuals who genuinely don't understand the rules and regulations of the system.

A single, employable Ontario Works recipient collects \$520/month. According to a recent rental market survey, an average bachelor apartment in Hamilton rents for \$423/month – that leaves close to \$3.23 a day for food, transportation, telephone, clothing, hygiene products and other necessities.

Children account for almost half of all people on welfare in the province. The government has implemented provisions under which if a parent is convicted of welfare fraud, assistance will continue only for the children. Due to the high costs of food and shelter, parents who are convicted will likely be unable to stay under the same roof with their children. Other concerns have indicated that it will be extremely difficult for those who are convicted of welfare fraud to ever find gainful employment due to their criminal record.

### CONSOLIDATED VERIFICATION PROCESS "CVP"

Consolidated Verification is a standardized process that will review eligibility for welfare recipients. A computer system was designed by the province to prioritize cases and determine if a recipient is defrauding the system. The computer will review indicators such as high rent costs or other potential irregularities and inform a caseworker, who will then initiate a meeting to review eligibility. Before the interview takes place, the recipient will be provided with a list of documents to bring to the meeting and two weeks notice will be given. If the recipient does not attend the meeting, benefits will be terminated and the recipient will have to appeal the decision.

The most common documents required are birth certificates, OHIP cards, bank statements and rent receipts to establish proof of identity, asset levels and proof of residence. There is concern that the cost of obtaining original documents may be overwhelming for many recipients on fixed incomes.

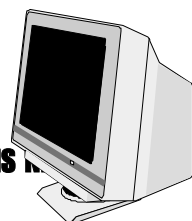
If recipients attend the meeting, but do not have all the documents on the list, they will be given time to obtain those required and will not be penalized immediately. If a meeting was missed as a result of a misunderstanding or a lack of English skills, the issues may be resolved through the Internal Review Process and not have to proceed to a formal hearing.

Approximately sixty recipients had their benefits terminated at the end of January, 2000.

If you or a client receive a CVP notice it should be complied with immediately. If benefits are suspended, contact your local Community Legal Clinic.

**Hamilton & District Injured Workers Group and  
the Ontario Network of Injured Worker Groups**  
Invite you to an important presentation on

**Chronic Pain Benefits:**



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## Will the Workplace Safety & Insurance Board Take them away?

**Wednesday, March 29<sup>th</sup> at 7:30 p.m.**  
**Branch 58 – Royal Canadian Legion**  
**1180 Barton Street East (across from Centre Mall)**

Highlights will include an important discussion on reports released by the Chronic Pain Advisory Panels for the Workplace Safety & Insurance Board.



Guest Speakers will include

**Dr. Ted Haines**, Occupational Medicine, McMaster University

**Wayne Marston**, President Hamilton & District Labour Council

**Rob Butler**, Local 1005 USWA

**Phil Biggin**, Union of Injured Workers &  
Member of the Chronic Pain Advisory Panel

## Refugee Head Tax Eliminated

In the last edition of Community Legal Facts/Fax, an article appeared that outlined the efforts of Hamilton's Community Coalition for Immigrants and Refugees to petition the federal government to eliminate the Right of Landing Fee for refugees. The Community Coalition is comprised of representatives of Hamilton's immigrant, refugee and visible minority communities and works closely with Settlement and Integration Services Organization. In 1995, a \$975 Right of Landing Fee was imposed on all new-comers to Canada and was widely seen as both unfair and as a significant hardship to refugees who are in many cases trying to leave life-threatening situations.

As of February 28, 2000 the Federal Government eliminated the Right of Landing Fee for refugees. Reza Shahbazi, President of the Ontario Council of Agencies Serving Immigrants said "the widespread attention to the situation of Kosovar Refugees illustrated for Canadians that most refugees arrive with little more than the clothing they are wearing. We commend the Federal Government for eliminating this heavy financial burden for refugees in Canada". Refugees who have already paid the Right of Landing Fee but have not received their official "landed" status may be eligible for a reimbursement.

Hamilton's Community Legal Clinics applaud the work of the Community Coalition for bringing this important issue to the public's attention and wish them well in their continuing advocacy on behalf of newcomers. For more information on the Community Coalition, please call 521-9917

*Several issues are confronting recipients of social assistance. One of these involves additional penalties being imposed on social assistance recipients convicted of offences under the Criminal Code.*

# INCARCERATION!

The new legislation governing the provincial disability plan, the Ontario Disability Support Program Act (ODSPA), imposes strict penalties on those who may be incarcerated. The former legislation, the Family Benefits Act (FBA), prohibited receipt of benefits during the period of an incarceration and called for cancellation of benefits where the jail term was six months or more.

The Ministry interprets the act, policy, regulations and a broadcast note, (a document that instructs workers on the mechanics of deductions), to mean that anyone who is not part of a benefit unit and is jailed for one full month should have benefits cancelled. Conversely, a person who is a member of a benefit unit will resume receipt of full benefits upon release from jail. The single person must re-apply for entitlement to benefits to the Disability Adjudication Unit (DAU). This change significantly impacts single, grand-parented recipients. The legislation clearly creates a distinction between single recipients and others. However, the distinction cannot be argued to the Social Benefits Tribunal, as the Charter of Rights and Freedoms is beyond that body's interpretive jurisdiction.

The FBA recognized a class of persons who by reason of a physical, emotional, or psychological disabling condition coupled with personal characteristics such as lack of education, illiteracy etc., were permanently unemployable "PUE". This definition is no longer accepted under the ODSPA and a person must meet the new definition of being disabled: having a substantial impairment causing a substantial restriction in personal care, community, or workplace activities.

Presently, different panels of the SBT have reached conflicting decisions on the fate of grand-parented PUE recipients who are jailed while in receipt of ODSP income support. The decisions, which hold that a person in this situation can be reinstated without a new application, are in the process of reconsideration by the SBT. This issue may be one for the Divisional Court to resolve.

A jail term of "one full month" has been interpreted as a calendar month and where a jail term of 30 days straddles two months, the cancellation of benefits will not apply. This is one redeeming feature of the Ministry's application of the legislation.