

Child or Spousal Support Orders and Participation in Ontario Employment Benefits and Support Measures

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Purpose

The purpose of this document is to provide information for Ministry of Training Colleges and Universities (MTCU) Employment and Training Consultants (ETCs) who are evaluating the viability of skills training or other employment interventions for clients, who have child or spousal support orders or are dealing with participants for whom a garnishment has been received from the Family Responsibility Office (FRO).

This paper can also be shared with your Employment Service (ES) service provider.

This guidance applies to the Ontario Employment Benefits and Support Measures (OEBSMs) for which MTCU payments are made directly to participants, namely Second Career (SC), Ontario Self Employment (OSEB) and Ontario Job Creation Partnership (OJCP). The potential impact is greatest for SC participants because of lump sum payment e.g. tuition is subject to up to 100 percent garnishment.

It also clarifies the roles and responsibilities of the client and the ES Service Provider. It is a client's responsibility to contact the appropriate Enforcement Services staff at the FRO should it be necessary. ETCs are reminded that the enforcement of support orders is regarded as a serious matter by the government and that they must not become overly involved in the details of a client's child or spousal support order.

The existence of a child or spousal support order or a garnishment is **not** a reason to deny a client the opportunity to participate in an Ontario Employment Benefit and Support Measure; however, it could affect the financial viability of the intervention.

General information on child or spousal support orders

Background

The FRO receives every support order made by Ontario courts and enforces the payments of the amounts owed under the support order. The FRO also administers private written agreements that have been filed in the Ontario Court and court orders made in other jurisdictions that have reciprocal arrangements with Ontario. The FRO's goal is to help families in Ontario receive the financial support they are entitled.

The FRO ensures that support payments flow properly from payors (people who make support payments) to recipients (people who receive them). The FRO has the legal authority to collect court ordered support payments and arrears of support, and can take enforcement action including garnishment.

A garnishment is the lawful seizing of money by a third party for a debt that is in default. In the case of child and spousal support orders a garnishment can be made by the FRO for family support payments that are in arrears. The FRO has the authority to garnish Employment Insurance (EI) Part II payments being made to OEBSM participants by MTCU and EI Part I payments by Service Canada (working through Justice Canada). It can also garnish wages, lottery winnings, income tax refunds, bank accounts and other assets. Income support amounts can be garnished at a 50 percent rate while up to 100 percent of lump sum payments can be taken.

Garnished monies are transferred by the FRO to the individual.

Clients who disclose child or spousal support orders

Early Identification of a child and spousal support order

The ES Service Provider should attempt to determine whether a client has a child or spousal support order early in the assessment process. This information will assist in the development of a realistic Employment Service Plan.

If a client discloses s/he has an existing child or spousal support order, the ES Service Provider should inform her/him that both EI Part I and II benefit payments are subject to garnishment if the client is behind in their payments. The amount of the child or spousal support order deducted from EI Part I benefits is based on a percentage of the net amount of EI benefits payable.

In Ontario, the maximum taken is up to 50 per cent of the net payment. The amount of the child or spousal support order deducted from EI Part II employment benefits can be up to 100 per cent in the case of lump sum payments.

If the Employment Service Plan recommends an employment program that provides direct financial support from EI Part I and/or Part II, the ES Service Provider should ask the client if he/she is in arrears or may lapse into arrears during the employment intervention. In all cases, the client should be directed to contact the FRO to clarify their payment obligations and options and the ES Service Provider and client should have a joint telephone call with the FRO case manager.

The child or spousal support payment process and timelines

Employment and Training Consultants need to confirm that there is sufficient lead time to proceed with approval of the employment intervention and manage the waiting time while the FRO considers the client's situation. As noted above, the existence of a child or spousal support order should be identified up front by the ES Service Provider. In addition to informing the ES Service Provider, the client must indicate on his/her Ontario Employment Benefit application – namely, SC, OSEB, and OJCP - that they have a child or spousal support order.

The disclosure wording on the Employment Benefit application is as follows:

Child or Spousal Support Obligations

- i. Are you required to make payments for child or spousal support under a court order made by a judge or an agreement that you signed? (Yes) or (No)*
- ii. If you answered yes, are you behind in the payments you are required to make? (Yes) or (No)*
- iii. If you have a support obligation, has the federal government been advised to divert your income tax refunds, HST, CPP, EI, or other federal payments to pay your support? (This would be done under the Family Orders and Agreements Enforcement Assistance Act by the Family Responsibility Office in Ontario or the support enforcement program in another province if your support order is enforced elsewhere.) (Yes) or (No)*
- iv. If you answered yes to any question above, please provide details.*

Important: You may still qualify for financial assistance under this program, even if you are behind in your support payments. However, if your application for financial assistance is ultimately approved, and you provided false or misleading information under this section, your financial assistance could be terminated immediately and you could be required to repay any financial assistance already received.

If the client is behind in their regular payments then the FRO will consider garnishment of the Part II payments. It is important that the ES Service Provider asks if the client is behind in payments once the client discloses a child or spousal support order. A client who has fallen behind in support payments may be able to negotiate a revised payment schedule – by submitting a *Voluntary Arrears Payment Schedule (VAPS) FRO-004E (VATS)*. The form is available on the FRO website – www.theFRO.ca.

The VAPS is an agreement that enables the client to pay the FRO according to a payment schedule the client has negotiated with them. The payments made, based on this schedule, are in addition to the regular ongoing support payments to reduce the arrears.

The ES Service Provider and the client should call the FRO to obtain up to date confirmation of the balance of the client's account. At this time the client and the case manager can also ask questions of the FRO case manager. The ES Service Provider will provide written documentation on the date of the call, the name of the FRO case manager, information of the client's payment schedule, and any other information that could assist the ETC to make a decision.

In all cases where it is clear the client is in arrears MTCU requires that the client **must** request and enter into a voluntary arrears payment schedule (VAPS). It is an MTCU objective to reduce the number of garnishments wherever possible.

If a client needs to request an adjustment to the payment schedule he/she should be aware that the FRO reviews these situations on a case-by-case basis

A client will not normally get a written statement from a FRO case officer guaranteeing that FRO will not garnish payments; however, taking into account the client's past payment history, the FRO case officer may negotiate a financial arrangement that will allow the client to have a reasonable opportunity to complete the program.

If the client does receive a letter or document in writing from FRO confirming the arrangement then the client should include a copy to assist with the application assessment and approval of the specific Employment Ontario program.

For all clients who disclose the existence of an child or spousal support order the ES Service Provider will ensure that the client has completed the disclosure portion of the application form and provide any additional information they think will assist the ETC to decide whether or not to approve the request.

Negotiating Financial Assistance

EI Part II

The client must negotiate his/her financial obligations to an amount that will allow them to complete the Employment Ontario program. Some clients will be unable to negotiate a revised payment of the Family Order Agreement (FOA) for their EI Part I benefits but may be able to negotiate a VAPS against their Part II assistance.

If a client is approved by the ETC for participation in an Employment Ontario program, the total amount of financial assistance given to a client is a negotiated or flat rate amount, and normally requires a financial contribution or personal investment from the client's own resources. The negotiation between the client and the ETC involves reviewing the client's personal budget to determine how much of his/her funds not accounted for by existing obligations are available for the employment intervention.

Recognition is given for dependent children, including those living with someone else, in the calculation of the Second Career living expenses. However, child or spousal support order expenses are not an allowable expense towards which MTCU can contribute.

Clients should be informed at the time of approval that garnishments could be taken soon after Part II payments commence if the client is in behind in their payments. MTCU and FRO have established a data matching agreement and process to identify MTCU Employment Program participants with support orders in arrears. Once clients are identified in the bi-weekly matching process, then the FRO will review each file to make decisions on garnishments on a case-by-case basis.

The critical factor for the client and the ETC to determine before completing the employment program agreement is whether the client will have enough money after the FRO payments are made to have a reasonable chance of completing the employment program.

If clients are unable to arrange an adjustment and have no other source of additional income to offset the reduction caused by the FOAs, they should consider delaying their participation in the Employment Ontario Program.

Overpayments

The normal rules and policies for establishing overpayments and seeking repayment apply. If a client with a child or spousal support drops out or if an agreement is terminated by MTCU, any money paid out that was not used for its intended purpose must be repaid. This would include any funds paid by MTCU to the FRO because of a garnishment.

When participants are garnished by the Family Responsibility Office

Bi-weekly data matches between MTCU and the FRO identify all new participants with child or spousal support orders. Once a match is identified the FRO will assess the file and if necessary contact MTCU's head office. MTCU has 12 days to act on any FRO garnishment request.

Once a garnishment request is received, MTCU head office will contact the field office that holds the client file. The field office will inform the client that the payments are about to be garnished and suggest that the client immediately contact the FRO to explore the possibility of negotiating a VAPS. The ETC will work with the client to reassess finances and also to reconsider the original Action/Employment Service Plan.

EI Part II payments must not be increased by MTCU to offset an impending garnishment.

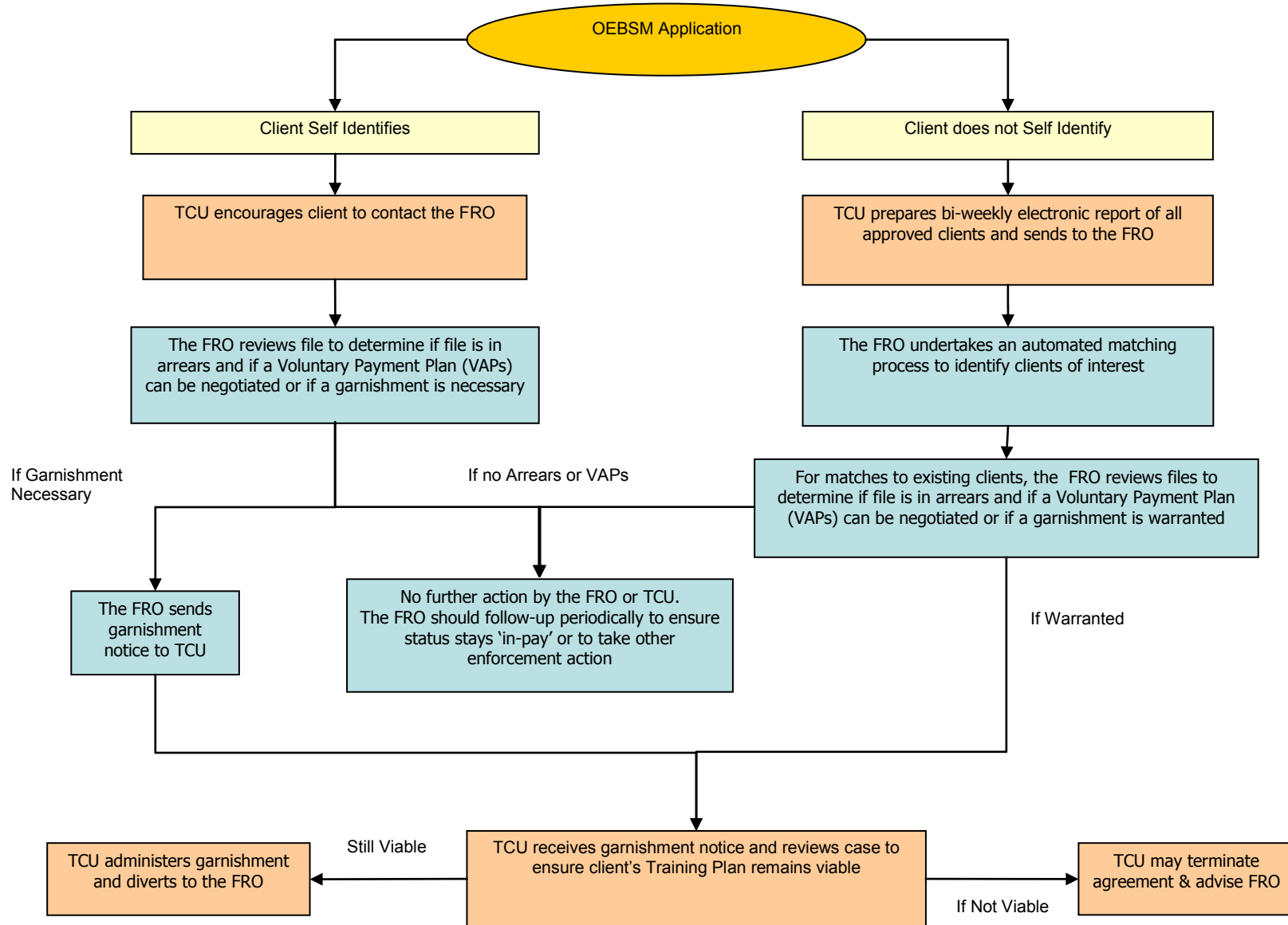
Additional Information

FRO Web site: www.theFRO.ca

Family Responsibility Office
P.O. Box 220
Downsview Post Office
Downsview, Ontario
M5M 3A3

Automated PIN Info Line: (416) 326 -1818
Telephone: 1-800-267-4330 or (416) 463 - 3533
Employer Hotline: 1-800-463-3533
Facsimile: (416) 240 -2401

FRO – TCU Process for LMDA Programs



FRO – TCU Process for LMDA Programs

1. OEBSM Application Submitted
 - a. If the Client Self Identifies. TCU encourages client to contact the FRO. The FRO reviews file to determine if file is in arrears and if a Voluntary Payment Plan (VAPs) can be negotiated or if a garnishment is necessary.
 - i. If no Arrears or VAPs. No further action by the FRO or TCU. The FRO should follow-up periodically to ensure status stays 'in-pay' or to take other enforcement action.
 - ii. If Garnishment Necessary. The FRO sends garnishment notice to TCU, continue to step two.
 - b. If the Client does not Self Identify. TCU prepares bi-weekly electronic report of all approved clients and sends to the FRO. The FRO undertakes an automated matching process to identify clients of interest. For matches to existing clients, the FRO reviews files to determine if file is in arrears and if a Voluntary Payment Plan (VAPs) can be negotiated or if a garnishment is warranted.
 - i. If no Arrears or VAPs. No further action by the FRO or TCU. The FRO should follow-up periodically to ensure status stays 'in-pay' or to take other enforcement action.
 - ii. If warranted, continue to step two.
2. TCU receives garnishment notice and reviews case to ensure client's Training Plan remains viable.
 - a. If not Viable. TCU may terminate agreement & advise FRO.
 - b. Still Viable. TCU administers garnishment and diverts to the FRO.