

MTCU Guidelines
Child or Spousal Support Orders
and
Participation in Ontario Employment Benefits

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Purpose:

The purpose of this document is to provide information for MTCU Employment and Training Consultants (ETCs) who are evaluating the viability of 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 EAS assessment centre staff.

These guidelines apply to the Ontario Employment Benefits for which MTCU payments are made directly to participants, i.e. Ontario Skills Development, Ontario Self Employment and Ontario Job Creation Partnerships. Ontario Targeted Wage Subsidy clients are only affected in those rare situations when transitional payments are made at the beginning of a work placement. The potential impact is greatest for Ontario Skills Development participants because lump sum payments for tuition and other incremental costs are subject to up to 100 percent garnishment.

These guidelines also clarify the roles and responsibilities of the ETC and the client. It is a client's responsibility to contact the appropriate Enforcement Services staff at 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; however, it could affect the financial viability of the intervention.

General information on child or spousal support orders

Background:

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

FRO ensures that support payments flow properly from payors (people who make support payments) to recipients (people who receive them). FRO has the legal authority to collect court-ordered support payments and arrears of support and can take enforcement actions 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 FRO for family support payments that are in arrears. FRO has the authority to garnish EI Part II payments being made to Ontario Employment Benefit 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 moneys are transferred by FRO to the recipient.

When clients disclose child or spousal support orders

Early Identification of a child and spousal support order:

The OEAS assessment centre case manager 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 Return to Work Action Plan (RTWAP).

If a client discloses s/he has an existing child or spousal support order, the OEAS case manager should inform him/her that both EI Part I and II benefit payments are subject to garnishment if the client is behind in the 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 RTWAP recommends an employment program that provides direct financial support from EI Part I and/or Part II, the OEAS case manager should ask the client if he/she is in arrears or may lapse into arrears during the intervention. In all cases, the client should be directed to contact FRO to clarify their payment obligations and options and the OEAS case manager 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 intervention and manage the waiting time while 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 OEAS case manager. In addition to informing the OEAS case manager, the client must indicate on his/her Ontario Benefits application - i.e. Ontario Skills Development, Ontario Self Employment, Ontario Job Creation Partnerships, and Ontario Targeted Wage Subsidies - that they have a child or spousal support order.

The disclosure wording on the applications 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, GST, 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 FRO will consider garnishment of the Part II payments. It is important that the OEAS case manager 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 FRO according to a payment schedule the client has negotiated with FRO. The payments made, based on this schedule, are in addition to the regular ongoing support payments to reduce the arrears.

The OEAS assessment centre case manager and the client should call 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 OEAS case manager 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 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.

For all clients who disclose the existence of a child or spousal support order the OEAS assessment centre case manager 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 Ontario employment benefit. Some clients will be unable to negotiate a revised payment of 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 Ontario employment benefit, 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 Ontario Skills Development 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 Benefits participants with support orders in arrears. Once clients are identified in the bi-weekly matching process, then 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 program agreement is whether the client will have enough money after the FRO payments are made to have a reasonable chance of completing the 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 Ontario Employment Benefits.

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 FRO because of a garnishment.

When participants are garnished by the Family Responsibility Office

Bi-weekly data matches between MTCU and FRO identify all new participants with child or spousal support orders. Once a match is identified 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 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 RTWAP.

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

