



Accessing Disability Benefits for Your Patients: ABC's on Filling Out HSR's

Mississauga Community Legal Services

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We will talk about ...

- Work done by legal aid clinics
- Applying for benefits under the ODSP and the legal test for disability
- The Forms: HSR and ADL
- The THREE important requirements
- 5 tips for a better ODSP application
- 3 tips for a better medical report
- Q&A

What do legal aid clinics do?

- ▣ Legal Aid clinics are funded by Legal Aid Ontario
- ▣ In Peel: Mississauga and Brampton
- ▣ Provide advice, representation & public legal education seminars in poverty law
- ▣ Income maintenance appeals: OW, ODSP, CPP, CPP-D, EI, WSIB
- ▣ One of our key areas of expertise is appeals from decisions denying ODSP benefits

Why is this so important?

- Single person on OW = \$599 per month
- Single person on min. wage = \$1640
- One bd apt. in Peel = \$969 (2011 CMCH stats)
- Avg rent increase in 2011 = 2.3%
- OW rate increase each year in the the last 3 years = 1%
- Average food cost for family of four in Peel (two adults, one teenager, one child) = \$692.25 (<http://www.immigrationpeel.ca/money/cost.htm>.)
[\$1136 on OW. Costs \$1661.25]

Doug's slide

Mention financial eligibility and medical eligibility

Why is this so important?

□ DIGNITY!

- Single person on ODSP = \$1064 and \$2280 for family of four
- Access to medical supplies (employment supports for the disabled, enhanced dental benefits and vision benefits)
- Stability = employment, connecting with community, food, health, etc.

Applying for ODSP

- Administered under the Ontario Disability Support Program Act and regulations
- Different categories of eligibility, but we are focusing on “person with a disability”
- Determination is based on:
 - (1) Financial eligibility
 - (2) Medical eligibility
- Medical eligibility is determined by the Disability Adjudication Unit (“DAU”)

s.4(1) ODSPA “Person with a disability”

- A person is a **person with a disability** for the purposes of this Part if,
 - a) the person has a **substantial physical or mental impairment** that is continuous or recurrent and expected to last one year or more;
 - b) the direct and cumulative effect of the impairment on the person’s ability to attend to his or her personal care, function in the community and function in a workplace, **results in a substantial restriction in one or more of these activities of daily living**; and
 - c) the impairment and its likely duration and the restriction in the person’s activities of daily living have been **verified by a person with the prescribed qualifications**.

Janice

There is a difference between impairments and restrictions

Impairment is a medical concept

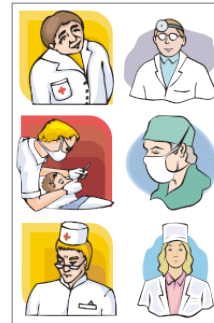
DAU, HSR and ADL

- The DAU reviews all medical applications and determines if the applicant meets the legal test of “person with a disability”
- The application consists of two parts:
 - (1) Health Status Report (“HSR”)
 - (2) Activities of Daily Living (“ADL”)
- These parts must be completed by a person with the “prescribed qualifications”

Who can complete the HSR?

□ Persons qualified to complete the HSR include:

- physicians
- psychologists
- psychological associates
- ophthalmologists
- optometrists
- registered nurses in the extended class (RNEC)



Who can complete the ADL?

- ❑ Everyone who can complete the HSR can also complete the ADL
- ❑ The following people can also complete the ADL: occupational therapists, physiotherapists, audiologists, chiropractors, registered nurses, speech language pathologists, social workers
- ❑ Two different people can complete the HSR and ADL for one application

The process of applying for ODSP

1. Check for financial eligibility.
2. Check medical eligibility via HSR and ADL
(this is where YOU help the most)
3. DAU will decide if applicant meets the test of "person with a disability".
4. If not: file internal review request.
5. Internal review conducted by the DAU.
6. If still denied: file appeal to the Social Benefits Tribunal ("SBT"), via legal clinic
(this is where YOU can help us)

Don't complete the application!!

If you do not think that your patient meets the test of a "person with a disability" please do not complete an ODSP application form!



This just creates unnecessary expectations from the patient, and uses up a lot of resources as the patient goes through the long appeal process.

The THREE most important things

- In order for the DAU or SBT to even consider a medical condition, three things must be verified about the condition:
 1. an impairment (ie. pain, fatigue, dizziness, impaired memory, etc.)
 2. a restriction (ie. inability to sit for long periods of time, problems completing household chores)
 3. will last one year or more
- If any of these things is missing, the DAU and SBT will not consider the medical condition at all.

Tip 1: Complete all boxes for all medical conditions on the HSR

- The most common issues in the main section of the HSR are:
 1. not mentioning a proper impairment
 2. not listing all impairments
 3. not listing any restrictions
 4. checking off less than one year
- **If any of the important elements are missing, the DAU or SBT will not consider that medical condition at all!**



HSR, two handouts

Janice

Tip 1: HSR continued

- Be sure to mention all conditions that the Appellant has that could contribute to their disability
- One of the most common issues is that the patient claims, or evidence shows, there is a condition that contributes to the disability that is not verified by the doctor



Tip 2: Mention all treatments

- The DAU and SBT places great importance on prescribed medications
- Make sure you list all medications prescribed, even if you have to use the additional space below
- Note any side effects of medications
- If no medication prescribed for a condition, it is important to explain why, or else the assumption is that the condition is not a substantial one

Tip 2: Treatments continued

...

- Page 6 of the report is a place to quickly summarize all the treatments undergone by the patient
- Try your best to check off all the applicable boxes: past, current, proposed
- May cause a problem with credibility if there is other evidence regarding a past/current/proposed treatment, and the information in the HSR doesn't match

Doug's slide

Mention hospital visits on the form

Tip 3: Attach any consultations or radiological reports that are

- A considerable amount of weight is placed on specialist consultations, so please include any consultations you may have
- The DAU and SBT also like to see recent radiological reports
- Hospital records, discharge notes, and operative records are also important
- If a patient was not referred to a specialist for a specific reason, make sure you explain what the reason is

Doug

Usually ask for specialist reports

Tip 4: Complete the IEWS if there are any mental

- If any of the medical conditions results in mental impairments, it is extremely important that you complete the Intellectual and Emotional Wellness Scale
- If the IEWS is not completed, a negative inference is drawn
- The DAU or SBT is mainly looking for Class 3 or Class 4 rankings when deciding how substantial a mental impairment is

Tip 5: Make the ADL as comprehensive and detailed as

- Even though the ADL has less pages and consists of one only one chart, it is equally as important as the HSR
- ADL represents the second part of the test for disability, “substantial restriction”
- Find out from the patient exactly what all of their restrictions are, make sure you rank all of them

Janice

The DAU or SBT is mainly looking for Class 3 or Class 4 rankings when deciding the application

Class 3 moderate

Class 4 severe

Tip 5: ADL continued ...

- If the patient has any restrictions that are not included, or if a restriction requires further explanation, used the the notes section for this
- It would be helpful if you wrote "N/A" beside any of the categories that are not applicable to the patient instead of just ranking it Class 1
- Provide an opinion as to whether the patient is substantially restricted from functioning in the workplace

Tips for supportive medical reports

- If the patient's application is denied initially and then denied after an internal review, the matter proceeds to the Social Benefits Tribunal for a full hearing
- To prepare for the hearing, the legal clinic usually writes to the doctor for a medical report to use as evidence at the hearing
- Tips for the medical report are a little different than tips for completing the initial application

Janice introduce topic

Report Tip #1: Make reference to the date of decision

- To succeed at the SBT, the Appellant must prove that he/she was disabled as of the date of the Director's initial decision
- The Tribunal assumes that any medical report refers to the patient's medical condition as of the date of the letter unless it says otherwise
- Your report must explicitly state that it relates to the patient's condition on the date of the Director's decision

Report Tip #1: continued ...

- The following should be right at the beginning of your medical report:
“The information in this report reflects _____’s medical condition as of (date of Director’s decision)”
- If this is not clear, the Tribunal may not consider your report and may not even accept your report into evidence
- Date of Director’s decision is important!!

Report Tip #2: Address the highlighted areas of concern

- When the legal clinic or counsel requests a medical report, we will usually highlight the issues raised by the DAU in denying the application and ask you to address this concern
- It may seem like we're asking for information that has already been provided, but sometimes this clarification can make the all the difference

Report Tip #3: Communicate with us regarding any given

- Any medical evidence that the patient intends to rely on at the hearing must be submitted to the Tribunal 30 days before the hearing
- We make the deadline very clear in our request for a medical report
- If you cannot meet the deadline, we can still try to submit the report late with reasons, but the key is to advise us
- If you cannot provide a supportive report, please let us know as soon as possible

Summary of how you can help

- The THREE most important things: impairment, restriction, one year or more
- Include all conditions, medications & treatments in the HSR
- Complete the IEWS for mental conditions
- Being very inclusive in completing the ADL
- Include specialist & radiological reports
- Report on the patient's condition as of the date of decision (SBT appeal)
- Take note of special requests and deadlines for medical reports (SBT appeal)

Janice go over the points

Q&A time!

Do you have any questions for us?

Would you like to make a
comment?

Want to share your experience
with ODSP applications?

Thank you for everything!

Everything starts with having a concerned and caring medical provider. You are the key to income security for people with disabilities.



Legal Aid is here to help!

- For further information about legal aid clinics, or if you would like to make a referral, please contact us at the clinic:

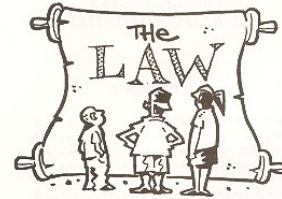
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- If you reside in Brampton, please call 905-455-0160



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