

<b>Manitoulin-Sudbury District Services Board POLICY &amp; PROCEDURES MANUAL</b>	
Section: H. Ontario Works	Effective Date: July 1, 2009
Topic: 9. Monitoring Eligibility	Replaces: November 2004
Subject: 9.2. Internal Review	
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<b>POLICY</b>
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**Authority**                    **OW Act: Sec. 24, 25, 26, 27, 28(1) and 68**  
**OW Directives: Sec. 10.1**

**Important:** Immediate action must be taken when a request for an internal review is submitted.

The Case Manager is responsible to ensure that all clients are notified of any denial, suspension or cancellations with or without overpayments. When a decision is made a Notice of Decision Letter is to be sent to the applicant/recipient. Form letters are available in both official languages. They are to be used for any decisions to deny, vary, suspend or cancel basic financial assistance. The letters are generated by SDMT based on what is input by the Case Manager.

\*Case Managers **MUST** review all letters before mailing them to the clients to ensure the correct section of the Ontario Works Act or Regulation is quoted. This is very important if these decisions are appealed in the future.

These letters include:

- a **Notice of Decision letter** advising applicants of decisions to deny financial assistance;
- a **Notice of Decision letter** advising participants of decisions to vary, suspend or cancel basic financial assistance (this would include issues of non compliance);
- a **Notice of Internal Review Decision** which is sent to inform applicants and participants of the results of the internal review

**Note:** There are two pages to the Notice of Decision letters. Both must be included in all letters that are issued. The second provides information about the appeal procedures.

**Oral requests** will be considered in exceptional circumstances which include but are not limited to:

- the applicant/participant who may have problems completing the forms due to illiteracy;

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- medical conditions or bereavement reasons;
- the Notice of Decision was received late by the applicant/participant due to circumstances beyond his/her control.

<b>PROCEDURE</b>
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### APPEAL PROCESS

1. **The participant has been found ineligible for financial assistance:** The letter to deny financial assistance is sent advising the person of the reasons for denial. The letter informs the participant of the right to an Internal Review this must be requested within 30 days of receiving the decision letter. If the participant does not apply for the Internal Review Process within the stated number of days, the case is not appealable to the Social Benefits Tribunal. The Internal Review procedure is explained on the second page of the decision letter.

2. **Contravention of legislation or issues of Non Compliance:** The letter to vary/suspend/cancel assistance is sent advising the participant of the reason for any change in benefits. The letter informs the participant of the right to apply for an Internal Review within thirty (30) days. As is the case with the first scenario, the participant loses the right to appeal to the Social Benefits Tribunal if the request for the Internal Review is not made within thirty (30) days. The Internal Review procedure is explained on the second page of the decision letter.

**Note:** In cases of non compliance the Case Manager should make thorough notes in SDMT for every incident of non compliance before making a final decision of ineligibility.

Case Managers should make every effort to accommodate any special needs the client may have to ensure success with their participation agreements.

3. **The Notice of Decision** advises the participant of the outcome of the Internal Review and instructs the participant as to the procedures to be followed in order to appeal to the Social Benefits Tribunal. The participant has 30 days to submit the request.

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### **INTERNAL REVIEW PROCESS:**

1. Decision letter is sent to the applicant/recipient.
2. The applicant/recipient submits a written request for an internal review of the decision. A Request for an Internal Review form is available, but a simple letter is all that is required from the client. The client's letter should contain reasons why the client disagrees with the decision. The person is assumed to receive the decision letter three days after it is mailed and must request the internal review within 30 days of receiving the decision letter. In many offices, a decision letter may be printed one day, but mailed the next. The internal review must be requested within thirteen days after the decision letter is mailed. Extensions of time to request an internal review must be considered when it is reasonable to expect that the person could not get the request in within the prescribed time frame.
3. Once the request for an internal review is received, it is to be given to the Case Presenting Officer who will then record all of the pertinent information in the Internal Review/SBT Log Book and SDMT.
4. Review Process:  
  
The CPO will:
  - Document the review process
  - Review the corporate file as it relates to the decision under review
  - Determine if the decision is:
    - consistent with legislation/regs/guidelines
    - fair and impartial
    - appropriate use of discretionary power
5. The Case Presenting Officer makes the decision to vary/uphold or reverse the Case Managers decision (in consultation with the Case Manager and Program Manager) and sends the client a letter informing them of the result of the Internal Review. The CPO updates the log and the SDMT program.
6. The CPO will then send the corporate file which will also contain the Internal Review information, letters etc, in the corporate file and this corporate file will go back to the file room. The CPO will inform the Case Manager of the final decision.

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7. Information going into the corporate file:
- Original Request for the Internal Review
  - Any relevant correspondence
  - Any other pertinent information
  - CPO's final decision letter

**Important Dates to Remember:**

- There is a 30 day limit for requesting an internal review
- There is a 10 day period during which the review must be complete.
- The CPO should count 3 mailing days from the time the decision letter is mailed. After that three days period is over, the client has a 30 day period during which an appeal to the Social Benefits Tribunal must be filed.

**DECISIONS NOT APPEALABLE TO THE SOCIAL BENEFITS TRIBUNAL**

The following decisions are not appealable to the SBT:

- any employment assistance that does not affect eligibility for, or the amount of, income assistance or a mandatory benefit (i.e.ERE);
- all Discretionary Benefits;
- a decision of the Lieutenant Governor in Council respecting assistance in exceptional circumstances.
- assistance given directly to third parties (e.g., direct payment of rent or utilities);
- a decision made under Subsection 17(2) to appoint a person to act on behalf of a recipient.

A variation, refusal or cancellation of assistance caused by an amendment to this Act or the Regulations

- a decision respecting emergency assistance.

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A prescribed decision

**DECISIONS NOT APPEALABLE TO THE SBT ARE FINAL WHEN:**

- the time for requesting an internal review expires and no internal review has been requested;
- an internal review decision is made and the ineligibility is rescinded; or
- the time for completing the internal review expired and no decision was reached.

**INTERIM ASSISTANCE**

The SBT can order Manitoulin-Sudbury DSSAB to pay interim assistance if they are satisfied that the applicant/participant will suffer financial hardship during the time it takes to complete the appeal. The wording of the order will specify what is to be included. If Manitoulin-Sudbury DSSAB disputes the Tribunal’s order then the administrator must provide reasons in writing, clearly outlining the financial circumstances the Tribunal should consider.

**RECOVERY OF INTERIM ASSISTANCE**

When an applicant/participant loses an appeal or withdraws an appeal and has been in receipt of interim assistance, the payments will be considered an overpayment and recovered at no more than the maximum amount of income assistance permitted under the Act. Manitoulin-Sudbury DSSAB currently recovers overpayments at 5% of the total assistance **and under Sec. 5 of the Act it now includes Special Benefits. (e.g., medical T and T, diabetic supplies, etc.).**

The Case Manager is responsible to enter this overpayment in SDMT.

**APPELLANT FAILS TO ATTEND HEARING**

If the applicant/participant fails to attend without just cause, or does not provide the written materials necessary to conduct a paper hearing, the Tribunal must deny the appeal.

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## **WRITTEN SUBMISSION**

If Manitoulin-Sudbury DSSAB intends to provide written submissions on an appeal, the submission must be filed with the Tribunal no later than 30 days following the receipt of a copy of the Appeal Form and request for a written submission from the Tribunal.

**CROSS REFERENCE: SECTION 9.3. - Overpayment Letter Inquiries**