



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **LONG-TERM CARE SUBSIDIZATION ACT REGULATIONS**

## PLEASE NOTE

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## LONG-TERM CARE SUBSIDIZATION ACT

### Chapter L-16.1

## REGULATIONS

Pursuant to section 12 of the *Long-Term Care Subsidization Act* R.S.P.E.I. 1988, Cap. L-16.1, Council made the following regulations:

### Interpretation

#### 1. Definitions

- (1) In these regulations,
- (a) “**Act**” means the *Long-Term Care Subsidization Act* R.S.P.E.I. 1988, Cap. L-16.1;
  - (b) “**applicant**” means
    - (i) a person who applies, or on whose behalf an application is made, for financial assistance, or
    - (ii) a person who receives financial assistance;
  - (c) “**nursing home**” means
    - (i) a manor or similar facility owned and operated by the government, or
    - (ii) a nursing home licensed under the *Community Care Facilities and Nursing Homes Act* R.S.P.E.I. 1988, Cap. C-13;
  - (d) “**spouse**” means a person who, in respect of another person,
    - (i) is married to the other person,
    - (ii) has entered into a marriage with the other person that is voidable or void, or
    - (iii) is not married to the other person but is cohabiting with the other person in a conjugal relationship and has done so continuously for a period of at least 12 months.

#### Person in need

- (2) An applicant is a person in need if the accommodation assistance for a calendar year exceeds the applicant’s income as assessed in section 3.

#### Residential institutions

- (3) Nursing homes are approved as residential institutions for the purposes of the Act and these regulations. (EC45/20)

## Application

### 2. Application form

- (1) A person shall apply for financial assistance in the form required by the Minister.

#### Application, joint

- (2) Subject to clause (3)(b), where a person has a spouse, the person may apply for financial assistance jointly with the person's spouse or as an individual.

#### Application, individual

- (3) A person shall apply for financial assistance as an individual, where
- (a) the person does not have a spouse; or
  - (b) the person is living separate and apart from the person's spouse due to a breakdown in the relationship.

#### Supporting information

- (4) The Minister may request and the applicant and the applicant's spouse, if a joint applicant, shall provide in a timely manner the information required to determine whether the applicant is a person in need, and the Minister may seek verification of that information from third parties, including the Canada Revenue Agency, as the Minister considers necessary.

#### Application considered consent

- (5) An application for financial assistance shall be considered to be consent by the applicant and the applicant's spouse, if a joint applicant, for third parties to release to the Minister information required by the Minister for the purpose of
- (a) determining whether an applicant is a person in need;
  - (b) planning, delivering or funding programs, allocating resources and evaluating or monitoring programs; and
  - (c) detecting, monitoring and preventing fraud or any unauthorized receipt of financial assistance.

#### Notice

- (6) Where the Minister determines that an applicant is not a person in need and refuses the application, the Minister shall notify the applicant and the applicant's spouse, if a joint applicant, in writing, of the decision, the reasons for the decision and the right to appeal the decision. (EC45/20)

### 3. Definitions

- (1) In this section,
- (a) "dependent" means a person who
    - (i) is supported by the applicant or the applicant's spouse,
    - (ii) resides with the applicant's spouse,
    - (iii) is the child, grandchild, parent, grandparent, brother, sister, aunt, uncle, niece or nephew of the applicant or the applicant's spouse, and
    - (iv) is either
      - (A) under the age of 18 years, or



- (B) 18 years of age or over, with an impairment in physical or mental function;
- (b) “low income measure” means the low income measure before tax, by size of family unit, for the most recent calendar year published by Statistics Canada;
- (c) “net income” means the amount reported on line 236 of an individual’s Income Tax and Benefit Return, as confirmed by the Canada Revenue Agency.

**Calculation of income, individual applicant**

- (2) Where an applicant applies as an individual, the applicant’s income for the purposes of determining whether the person is a person in need is the applicant’s net income for the preceding taxation year.

**Calculation of income, joint applicant**

- (3) Subject to subsection (4), where an applicant applies jointly with the applicant’s spouse, the applicant’s income for the purposes of determining whether the applicant is a person in need is equal to 50% of the aggregate of the net incomes of the applicant and the applicant’s spouse for the preceding taxation year.

**Minimum income for spouse**

- (4) Where the applicant’s spouse under subsection (3) does not reside in a nursing home, the aggregate of the net incomes of the applicant and the applicant’s spouse for the preceding taxation year shall be divided so that the portion of the aggregate allocated to the applicant’s spouse is the greater of
  - (a) the applicable low income measure; and
  - (b) 50% of the aggregate.

**Size of family unit**

- (5) For the purpose of determining the applicable low income measure in subsection (4), the family unit is composed of the applicant’s spouse and any dependents.

**Minister may vary**

- (6) Where an applicant is under 65 years of age, the Minister may, in extenuating circumstances, increase the portion of the aggregate of the net incomes of the applicant and the applicant’s spouse allocated to the applicant’s spouse under subsection (4). (EC45/20)

**Administration****4. Reassessment**

- (1) The Minister shall reassess whether an applicant is a person in need and the needs of the person in respect of financial assistance at least once per year.

**Powers of the Minister**

- (2) On reassessment, the Minister may vary, suspend or cancel the provision of financial assistance to an applicant.

**Audits**

- (3) The Minister shall ensure
  - (a) case audits are conducted on a random or continuing basis;

- (b) any other action is taken as may be necessary to monitor and evaluate the delivery of financial assistance; and
- (c) the results of the case audits and other activities are reported to the Minister. (EC45/20)

## 5. Definitions

(1) In this section,

- (a) “**administrator**” means the senior administrative officer of a nursing home;
- (b) “**comfort allowance**” means financial assistance for personal items and services.

### Trust account for comfort allowance

(2) The administrator shall establish a trust account for applicants residing in the nursing home into which, on the request of an applicant, the administrator shall deposit all or a portion of an applicant’s comfort allowance in trust to the credit of the applicant.

### Use of interest

(3) The administrator may use the interest accrued on moneys held in the trust account for the benefit of all residents.

### Distribution of balance on death

(4) Where an applicant who resides in a nursing home dies leaving a positive balance in the trust account, the administrator shall first apply that balance toward any accounts payable by the applicant in respect of personal items and services and pay any remainder to the applicant’s estate.

### Annual accounting

(5) The administrator shall provide an annual summary of an applicant’s trust account activity to the applicant or the applicant’s agent. (EC45/20)

## 6. Recovery of debt from estate

- (1) Where the Minister seeks to recover a debt due by a deceased applicant to the government from the applicant’s estate under section 11 of the Act
- (a) the first \$2,500 of the value of the applicant’s estate is not subject to the claim; and
  - (b) where the deceased applicant leaves a surviving spouse, the Minister’s claim shall not exceed 50% of the value of the applicant’s estate.

### Satisfaction

- (2) Where
- (a) a certificate has been filed with the Registrar of the Supreme Court under subsection 11(4) of the Act; and
  - (b) the debt due by the applicant to the government has been paid, cancelled, discharged or written off under clause 11(3)(c) of the Act,

the Minister shall file a satisfaction of the certificate with the Registrar and serve it on the debtor. (EC45/20)



## Appeals

### 7. Appointment of Panel

- (1) The Minister shall, within 30 days of receiving a notice of appeal, appoint a Panel and ensure the Panel is provided with
  - (a) a copy of the notice of appeal;
  - (b) a copy of the appellant's written application for financial assistance made under the Act;
  - (c) the particulars of the financial resources of the appellant as calculated by the Minister; and
  - (d) any other documents and records pertaining to the matter under appeal.

#### Appeal hearing within 15 clear days

- (2) The Panel shall commence a hearing of the appeal within 15 clear days after receipt of the notice of appeal. *(EC45/20)*

### 8. Notice of hearing

- (1) The Panel shall provide the appellant and the Minister at least three clear days' notice of the date, time and place of the hearing.

#### Registered mail or courier

- (2) Notice of the hearing shall be sent by registered mail or courier to the appellant at the address shown on the notice of appeal.

#### Withdrawal of appeal

- (3) An appellant may withdraw an appeal at any time before the date set for the hearing of the appeal by notifying the Panel either verbally or in writing of the appellant's decision to withdraw the appeal. *(EC45/20)*

### 9. Continued financial assistance pending appeal

- (1) Where an appeal is made in respect of a decision to reduce, suspend or cancel financial assistance, the amount of financial assistance previously provided shall continue to be provided until the Panel renders its decision.

#### No financial assistance pending appeal

- (2) Where an appeal is made in respect of a refusal to provide financial assistance, no financial assistance shall be provided to the appellant unless the Panel grants the appeal. *(EC45/20)*

### 10. Public or private hearing

The appellant may request that the hearing of the appeal be held in private or be open to the public. *(EC45/20)*

### 11. Failure to attend hearing

Where the appellant or a person acting on behalf of the appellant does not attend the hearing, the Panel shall dismiss the appeal. *(EC45/20)*

**12. Panel decides matters before it**

- (1) The Panel shall decide only the matters that fall within the Act and these regulations and are raised on appeal.

**Decision of Panel**

- (2) At the conclusion of the hearing of the appeal, the Panel shall
- (a) dismiss the appeal; or
  - (b) allow the appeal and vary the decision made by the Minister.

**Copy of decision**

- (3) The Panel shall provide a copy of the decision to the parties within 15 clear days from the conclusion of the hearing of the appeal.

**Final and binding**

- (4) Subject to subsection (5), the decision of the Panel is final and binding on the parties.

**New evidence**

- (5) Within 10 clear days of receipt of the written decision, the Minister or the appellant may, on the basis of new evidence only, request that the Panel review its decision on the appeal.

**Decision on review**

- (6) The decision of the Panel on a review under subsection (5) is final and binding on the parties.

**Effective date of decision**

- (7) The effective date of the decision of the Panel under subsection (2) or subsection (6) shall be retroactive to the date of the Minister's decision being appealed. (EC45/20)

**13. Costs**

- (1) Where an appeal is allowed by the Panel, the Panel may award costs to the appellant in an amount sufficient to cover the appellant's reasonable expenses, excluding legal fees, resulting from the appeal.

**Overpayment**

- (2) Where an appeal is dismissed by the Panel, the Panel may determine that the financial assistance granted under subsection 9(1) is an overpayment within the meaning of the Act. (EC45/20)

**General****14. Former regulations, meaning**

- (1) In this section, "former regulations" means the *Long Term Care Subsidization Act Regulations* (EC615/05).

**Transitional**

- (2) Where, immediately before the commencement of this section, the amount of financial assistance payable to an applicant was varied pursuant to subsection 8(3) of the former regulations, the Minister shall continue to provide the variation as if these regulations had not come into force, until the reason for the variation no longer exists.





**Exemption limits**

- (3) For the purpose of subsection (2), financial liabilities are limited to the items of expense set out in subsection 8(6) of the former regulations at values not exceeding the rates established for social assistance pursuant to the *Social Assistance Act* R.S.P.E.I. 1988, Cap. S-4.3 immediately before the commencement of this section. (EC45/20)

**15. Revocation**

The *Long Term Care Subsidization Act* Regulations (EC615/05) are revoked. (EC45/20)

