

# Ontario Disability Support Program

## Background

The Ministry of Community and Social Services (Ministry) administers two acts under which it provides social assistance to approximately 450,000 individuals as well as their qualifying family members for a total of more than 700,000 people. Under provisions of the *Ontario Works Act*, the Ministry provides employment and temporary income support to some 200,000 individuals. This support is provided with the aim of helping recipients find and maintain paid employment. Under the *Ontario Disability Support Program Act (Act)*, the subject of this audit, the Ministry provides income and employment support to approximately 250,000 individuals with eligible disabilities as defined by the Act.

Eligible Ontario Disability Support Program (ODSP) disabilities include mental disabilities such as psychoses (for example, schizophrenia), neuroses (for example, depression), and developmental delays. Physical disabilities include diseases of the musculoskeletal system (for example, osteoarthritis), diseases of the nervous system (for example, Parkinson's disease), and diseases of the circulatory system (for example, congenital heart disease). Although Ontario Works program income support is meant to be temporary, most ODSP recipients suffer from chronic disabilities and receive assist-

ance for many years. In some cases, they receive income support for the rest of their lives.

To be eligible for ODSP income support:

- all applicants must first demonstrate financial need by providing evidence that their liquid assets and income levels do not exceed specified amounts; and
- almost all applicants must be assessed to determine if their disability meets the eligibility test established by the Act—no disability assessments are required for people who are receiving Canada Pension Plan disability benefits, for individuals aged 65 and over who are ineligible for Old Age Security, and for individuals residing in prescribed institutions such as psychiatric facilities.

ODSP income support is intended to assist with basic living expenses such as food, shelter, clothing, and personal-needs items. Although employment-support programs are available to ODSP recipients, participation is not required. As a result, relatively few ODSP recipients join such programs.

Income support provided to ODSP recipients is somewhat higher than that provided to Ontario Works recipients. A comparison of typical benefits, all of which are tax-free, between the time of our last audit in 2004 and the 2008/09 fiscal year is shown in Figure 1.

**Figure 1: Typical Monthly ODSP Benefits (tax free)**

Source of data: Ministry of Community and Social Services

	Single Person		Single Person With One Child <sup>1</sup>		Couple With One Spouse Disabled and One Child <sup>1</sup>	
	2008/09	2003/04	2008/09	2003/04	2008/09	2003/04
basic needs allowance (\$)	566	516	709 <sup>2</sup>	772	838 <sup>2</sup>	875
maximum shelter allowance (\$)	454	414	714	652	775	707
<b>Maximum ODSP Benefit (\$)</b>	<b>1,020</b>	<b>930</b>	<b>1,423</b>	<b>1,424</b>	<b>1,613</b>	<b>1,582</b>
comparable Ontario Works benefit(\$)	572	520	920	957	1,036	1,030

1. child 12 years of age and under

2. reduction due to the introduction of the Ontario Child Benefit, up to \$50 per month per child

ODSP recipients may qualify for additional assistance, based on established need, for a number of other items, such as:

- health-related necessities, including transportation for medical appointments, medical supplies, special dietary items, and basic dental and vision care; and
- community start-up and maintenance benefits to assist in the cost of establishing a permanent residence.

ODSP is delivered by the Ministry's 44 local offices under the supervision of nine regional offices. Although the cost of ODSP income support is shared between the province (80%) and the municipalities (20%), the municipalities' portion will be reduced to 10% for the 2010 calendar year and eliminated in 2011 and beyond. In 2009, the province began paying 100% of the program's administration costs.

Largely as a result of caseload growth, as illustrated in Figure 2, total annual ODSP benefit payments have risen to more than \$3 billion, a 42% increase since the time of our last audit in 2004.

Since 2002, the Ministry's information technology network, known as the Service Delivery Model Technology (SDMT) system, has supported the administration of both the Ontario Works and ODSP programs. SDMT, developed by a private-sector company at a cost of approximately \$377 million, has been the subject of separate audits reported on in our 1998, 2000, and 2002 annual reports.

## Audit Objective and Scope

Our audit objective was to assess whether the Ministry's policies and procedures were adequate to ensure that:

- only eligible individuals received income support and that the income support provided was timely and in the correct amount; and
- the program was delivered with due regard for economy and efficiency.

The scope of our audit included a review and analysis of relevant ministry files, policies, and procedures, as well as interviews with appropriate staff at the Ministry's head office, three regional offices (Toronto, Central East, and Eastern), and the five local offices that we visited. We also held discussions and obtained information from a variety of organizations that are involved with, or have an interest in, the administration of the ODSP program, including two ODSP program client-advocate groups, as well as Legal Aid Ontario (which often represents applicants in their requests for benefits and in appeals before the Social Benefits Tribunal), and the Social Benefits Tribunal (which hears and rules on appeals regarding benefits that have been denied by the Ministry).

Our work emphasized the policies and procedures in place with respect to the administration of the ODSP program during the 2008/09 fiscal year.

**Figure 2: Annual ODSP Income-support Expenditures and Related Caseloads**

Source of data: Ministry of Community and Social Services

Fiscal Year	Expenditures		Caseload		Average Expenditure Per Case	
	\$ billion	% Increase	Caseload	% Increase	\$	% Increase
2008/09	3.025	7.4	253,359	5.3	11,940	2.1
2007/08	2.816	8.0	240,657	5.1	11,700	2.7
2006/07	2.607	7.2	228,885	6.1	11,389	1.0
2005/06	2.433	5.8	215,628	3.6	11,281	2.1
2004/05	2.299	7.9	208,070	2.9	11,049	4.9
2003/04	2.131	–	202,241	–	10,535	–

We concentrated on areas with the largest program expenditures—basic needs and shelter assistance—which together constituted 97% (\$2.93 billion) of total program expenditures.

We reviewed the Ombudsman of Ontario’s 2006 report on the Ministry’s Disability Adjudication Unit (DAU) that made a number of recommendations, including the need for timelier decision-making and the elimination of a four-month cap on retroactive benefit payments. We also considered the actions taken by the Ministry on these recommendations in planning our audit.

We also reviewed several recent audit reports issued by the Ministry’s Internal Audit Services. However, the scope of those reports was generally limited to specific issues, as opposed to the payment of the basic needs and shelter allowance, which was the main focus of our audit. We were, therefore, unable to rely on those audits to reduce the scope of our work.

## Summary

Following our 2004 audit and the Ombudsman’s 2006 report, the Ministry has taken steps to better administer the ODSP. For example, the hiring of additional medical adjudicators has allowed the Ministry to reduce the average wait time for a medical-disability decision to approximately 60 business days, a significant improvement from the

time of our last audit. Another area of improvement since our last audit was the much better documentation in the disability adjudication files.

Nevertheless, serious issues remain in determining an applicant’s financial eligibility and the correct amount of assistance to be paid. The Ministry has established a two-stage process to ensure that only qualified applicants receive income support. The first stage is problematic because it relies solely on the individual volunteering financial information. To compensate for the risks associated with this, the Ministry’s second stage requires third-party verification of certain information provided by the applicant. However, this verification requirement is largely ignored in practice.

As a result, the Ministry is not adequately ensuring that only eligible individuals receive disability support benefits and that the payments made to recipients are in the correct amount. Other significant findings and observations include the following:

- Although the Ministry has significantly reduced the average wait time for a medical-disability determination decision, 60% of recipients sampled still received late payments. On average, they experienced a 58-day delay after they had been determined to be medically qualified for payments, which is almost three times longer than the outside limit of 21 days established by the Ministry. These delays in receiving approved benefits offset to a significant degree the good

progress made since our last audit in expediting the initial medical determination.

- Oversight procedures are lacking to monitor and assess the fairness and consistency of decisions made by individual adjudicators at the Ministry's Disability Adjudication Unit (DAU). Consequently, eligibility determination rates among adjudicators generally varied from 11% to 49%.
- Many initial decisions were overturned after applicants who were not approved for benefits by the Ministry appealed to the Social Benefits Tribunal. In fact, the Tribunal in the 2008/09 fiscal year overruled the Ministry's decisions in 55% of these appeals. An independent consultant hired by the Ministry in 2008 noted that many Tribunal members approved 100% of all appeals, while one member upheld all the Ministry's decisions.
- Since 2002, the Ministry has not performed any of the periodic medical reassessments—required by legislation—to ensure continuing eligibility for disability support payments. As of March 31, 2009, there were 37,000 individuals identified as requiring such a reassessment to ensure that they still were eligible to continue receiving income support. Of those, 11,000 were overdue, many by several years.
- The Ministry relies on one individual to do all the assessment and reassessment work for any given file, yet the individual's work is neither supervised nor reviewed to ensure that the decisions made comply with ministry and legislative requirements.
- The total amount of overpayments for both active and inactive accounts has increased substantially to \$663 million as of March 31, 2009, from approximately \$483 million at the time of our last audit in 2004. In many cases, overpayments resulted from what would appear to be recipients fraudulently misrepresenting their circumstances. Often, these overpayments might have been avoided if the Ministry had followed up on tips received from the public, or more effectively reassessed the

eligibility and the amounts to be paid to those individuals whom its own systems identified as high-risk. For example, for a number of years the Ministry ignored five complaints about one recipient family that was later established to have received more than \$100,000 in overpayments. One of the tips noted that family members regularly drove new vehicles, including a new imported SUV.

- The Ministry's computerized SDMT information system still lacks key internal controls, and regional and local offices are not receiving, in an easily understandable format, the information they need to effectively oversee program expenditures.

## OVERALL MINISTRY RESPONSE

The Ministry of Community and Social Services welcomes the findings and recommendations of the Auditor General with respect to the delivery and oversight of the Ontario Disability Support Program. This is a vital service that ministry staff directly deliver to some of the most vulnerable citizens of Ontario. Within the context of a steadily growing caseload, the Ministry has taken numerous steps over the past several years to improve customer service and business processes. Notwithstanding the gains made over the past few years, the Ministry recognizes the need for continuous quality improvement. In this regard, a number of initiatives that are focused on improved technical and business processes, customer service, and accountability have been introduced in the 2009/10 fiscal year.

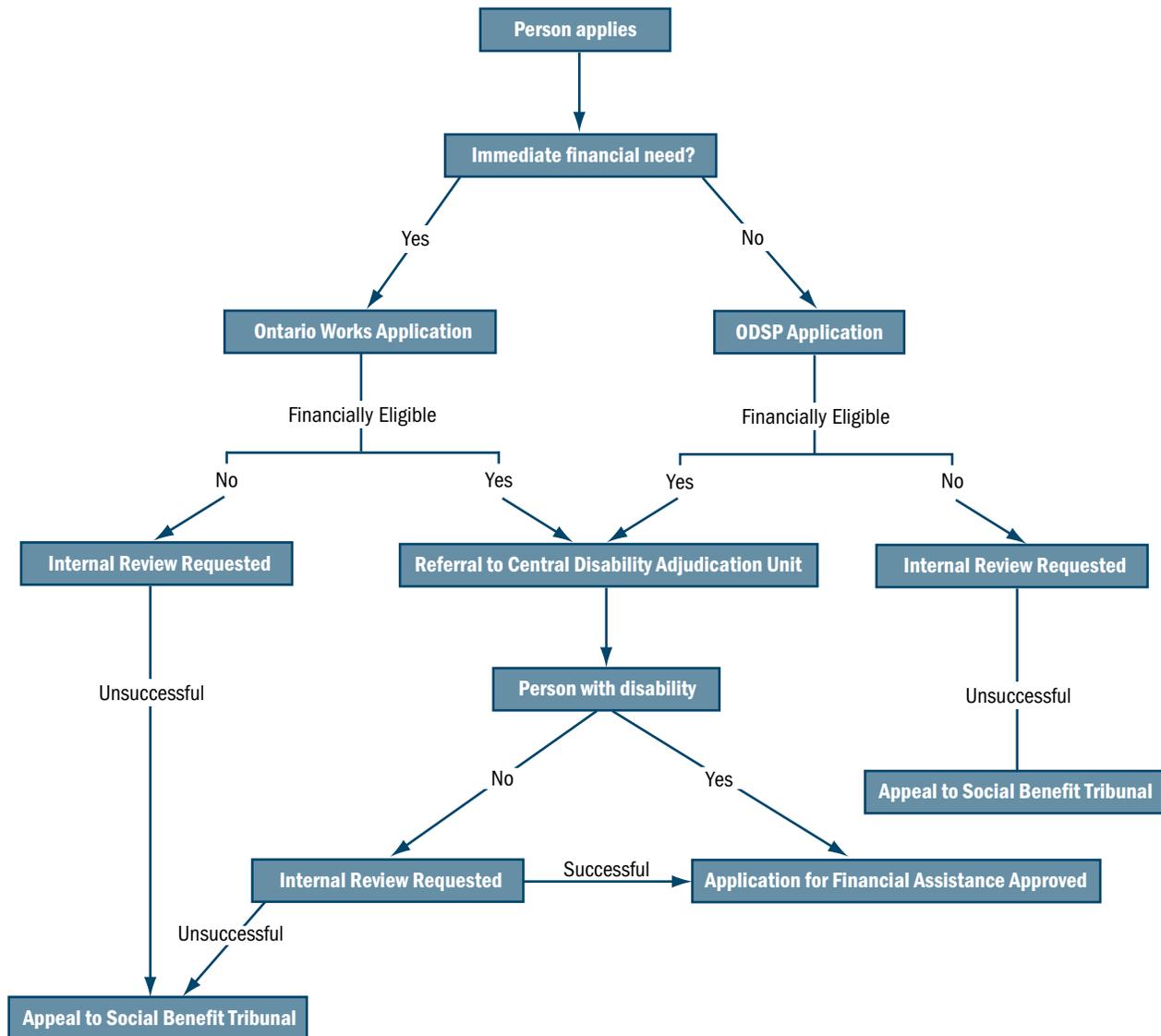
## Detailed Audit Observations

### OVERVIEW OF PROGRAM DELIVERY

From Figure 3, a schematic representation of the ODSP application process, it can be seen that

**Figure 3: ODSP Application Process**

Source of data: Ministry of Community and Social Services



disabled individuals in need of income support are normally referred to one of the Ministry's 44 local offices to apply for ODSP benefits. If the individual's financial need is considered immediate, he or she may be directed to the local Consolidated Municipal Service Manager to apply for Ontario Works Assistance, which is generally granted more quickly than ODSP benefits. The individual can then apply to transfer to the longer-term ODSP program. If the individual's need is not immediate, a caseworker in the local ministry office assesses the person's financial eligibility for benefits through an income-

and-asset test. To be financially eligible, a person's total assets must be at or below:

- \$5,000 for a single person; or
- \$7,500, if there is a spouse in the benefit unit.

(These amounts can increase by \$500 for each eligible dependant.)

Cash, bank accounts, RRSPs, and other assets that can be readily converted to cash are considered when calculating a person's total assets. Certain assets, such as a principal residence, a primary vehicle, locked-in RRSPs, and trust funds in the amount of less than \$100,000, are excluded when

determining whether the person's assets are within the prescribed limits.

When assessing a person's income levels, a caseworker considers income from such sources as employment, the Canada Pension Plan, the Workplace Safety and Insurance Board, and Employment Insurance. Generally, to be eligible for even a partial ODSP benefit, 50% of the applicant's total income from other sources must be less than the potential ODSP entitlement.

Once an applicant's financial eligibility has been established, he or she is provided with a disability-determination package. That package contains three forms: a health status and activities-of-daily-living index report; a consent form to have medical information disclosed to the ODSP; and an optional self-report. The first document, which must be completed by a physician or other prescribed health professional, provides information about the applicant's medical condition(s) and impact on daily living activities. The consent form must be completed and signed by every applicant. Completing the third form, which is voluntary, gives applicants the opportunity to describe how their disability affects their daily life.

The completed documents are forwarded to the Ministry's centralized Disability Adjudication Unit (DAU) for review. An adjudicator, usually a professional in the health-care field, reviews the forms and determines whether the individual meets the test for disability (as defined under the Act) and is, therefore, entitled to assistance. If eligibility is approved, the DAU then advises the Ministry's local office that referred the individual to commence benefit payments. The Ministry's target is that the first payment be issued within 21 calendar days of the disability determination. The amounts to be paid are now retroactive to the date the DAU received the completed disability-determination package.

If an adjudicator determines that an applicant fails to meet the test for a disability, the applicant may request an internal review. A team of three different adjudicators reconsiders the application and must provide the reasons for its decision, in writing,

to the applicant within 10 calendar days of receiving the review request.

An applicant whose claim is also rejected by the internal review team may appeal to the Social Benefits Tribunal within 30 calendar days of the internal review decision.

## INITIAL FINANCIAL ELIGIBILITY ASSESSMENT

ODSP applicants must provide the Ministry's local office with all the information necessary to establish their eligibility for income support and to determine the correct amount of eligible assistance. To do so, they must provide copies of a number of documents, most of which are to be visually verified by the intake worker and are intended to establish the identity and legal status of the individual. These include a social insurance number card, Ontario health insurance card, birth certificate, and documents verifying a person's status in Canada. Additional documents, such as records verifying school attendance, may also be required, for example, for dependants over the age of 16. When it comes to disclosure of income and assets, the only requirements are a representation by the applicant and a copy of a recent monthly bank statement.

Our review of a sample of ODSP recipients' files found that, although there were some instances where staff failed to review critical documents for establishing an applicant's identity and legal status, this was adequately done in most cases.

However, verifying an individual's income and assets from personal representations and only one monthly bank statement is, in itself, not sufficient. For example, there is no assurance that an individual has provided a bank statement for all of his or her accounts. Furthermore, an applicant could have withdrawn most of the money in the account before the bank issued the monthly statement.

Accordingly, to help verify the income and assets declared by applicants, the Ministry has entered into a number of third-party, information-sharing agreements. Examples include arrangements with

Human Resources and Skills Development Canada for employment insurance information, with the Canada Revenue Agency for tax return information, with Equifax for credit checks, and with the Family Responsibility Office to verify any support payments received. It is ministry policy that the completeness and accuracy of the declaration of an applicant's income and assets must be verified with all four of these organizations.

Nevertheless, we found that two of the three regional offices we visited did not verify an applicant's income and assets information with any of the third-party providers, while the third office met the requirements only about one-fifth of the time. We concluded, therefore, that initial financial eligibility for ODSP recipients is not being adequately verified.

We also note that just one ministry income-support specialist makes all the decisions with respect to assessing an applicant's initial financial eligibility, and that the same individual maintains all the applicant's case files. Supervisors are not required to conduct periodic supervisory reviews of decisions made and files maintained, and we saw no evidence that such reviews were ever undertaken. Such lack of oversight further increases the risk of payments to ineligible recipients.

### RECOMMENDATION 1

To ensure that an individual's initial financial eligibility for Ontario Disability Support Program benefits is adequately verified, the Ministry of Community and Social Services should:

- comply in all cases with its own requirements to verify an applicant's declared income and assets with the third parties who have information-sharing agreements with the Ministry; and
- conduct supervisory reviews, at least on a sample basis, of the decisions made and files maintained by intake caseworkers to ensure that staff are adhering to Ministry requirements with respect to financial eligibility verification.

### MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only those eligible to receive benefits through the Ontario Disability Support Program (ODSP) are admitted to the program. In order to improve customer service and program integrity, a new initiative, introduced in the 2009/10 fiscal year, will streamline the ODSP case management structure over the next two years. An integral part of this restructuring will be a clarification of accountabilities for all staff involved in the delivery of ODSP, including managers. Staff and managers will be supported to take on these clarified responsibilities through training and revised business processes.

### INITIAL DISABILITY DETERMINATION

In our *2004 Annual Report*, we expressed concern about delays in adjudicating applications for disability benefits and recommended that steps be taken to expedite this process. In 2006, the Ombudsman of Ontario conducted an investigation into the Ministry's Disability Adjudication Unit to determine whether there were delays leading to applicants being deprived of benefits that they would otherwise be entitled to. The Ombudsman issued a report in May 2006 with a number of recommendations, including the following:

- The government of Ontario should amend the Act to eliminate the four-month limit on retroactive benefit payments.
- The Ministry should review its adjudication service standards and determine what the optimal processing time should be, given the intent and purpose of the program, and determine appropriate staffing strategies to process applications expeditiously.
- The Ministry should establish service goals for the treatment of pending applications.

Subsequent to our audit in 2004 and the Ombudsman's recommendations, the Ministry

eliminated the four-month restriction on retroactive benefit payments. As previously noted, eligible applicants' retroactive benefit payments now cover the entire period from the time their completed application is received to the time when payments commence, even if that period exceeds four months.

For the year ending March 31, 2009, the DAU received approximately 34,000 new applications for benefits, 17% more than the 29,000 received in the year of our last audit in 2004. Over the same period, the number of adjudicators increased from 30 in 2004 to 43 in 2009—a 40% increase. This has enabled the Ministry to reduce the average wait time for a medical-disability decision to approximately 60 business days after the completed disability-determination package is received. This time frame is well within the Ministry's current internal goal of 90 business days to adjudicate all applications. The average assessment period is a significant improvement from the wait times we found during our last audit in 2004 when many cases had not been adjudicated within four months.

To help ensure that all applicants are treated fairly, they are assessed on a first-in/first-out basis. The Ministry has a triage process that requires that all new applications receive an initial review within 10 business days of receipt. Approximately 25% of all such applications are determined, within the triage time frame, to have a clear, qualifying eligible disability. The remaining 75% of the applications require further review, and of these, approximately one-third are found to have an eligible disability. Our review of a sample of adjudication files noted that the reasons for assessment decisions were generally well documented, which was often not the case in our 2004 audit.

However, as a result of our review of the DAU's adjudication process and the summary information provided us, we noted a number of concerns:

- Responsibility for this disability determination rests with just one individual. In response to our 2006 follow-up report, the Ministry committed that its Chief Medical Adviser would

annually review 50 randomly selected files from each of the unit's adjudicators to ensure that correct medical assessments were being made. As of the completion of this audit, such a review had yet to occur. As a result, there still is no supervisory oversight or review process in place to assess the basis and quality of adjudication decisions.

- The Ministry does not monitor the percentage of applicants approved by individual adjudicators—either at the triage stage or subsequently. We found that these rates varied widely. For example:
  - At the triage stage, the percentage of applicants found to have an eligible disability generally ranged from 13% to 45%, depending on the adjudicator.
  - The percentage of post-triage applicants found to have an eligible disability generally ranged from 11% to 49%, depending on the adjudicator.

The Ministry was unable to provide any explanation for these significant variances. The risk associated with such wide disparities is that individuals with similar medical conditions can get a different decision, depending on which adjudicator's desk their file lands on.

Approximately two-thirds of applicants who are ultimately found to have no eligible disability ask for an internal review. These reviews are done by a team of three adjudicators. As a result of these reviews, some 15% of the original decisions are overturned, which, in our opinion, seemed reasonable. (However, an additional 55% of decisions that are further appealed are overturned by the Social Benefits Tribunal. See Social Benefits Tribunal Appeals later in this report.)

## RECOMMENDATION 2

To ensure that all Ontario Disability Support Program applicants are adjudicated fairly and consistently, the Ministry of Community and Social Services should:

- periodically review a random sample of each adjudicator's files to assess whether the decisions are generally supported and fair; and
- monitor the percentage of applicants found to have an eligible disability by each adjudicator and, if there are significant variances, investigate the reasons for them and take corrective action where necessary.

## MINISTRY RESPONSE

The Ministry has implemented several quality-assurance measures to ensure the integrity of decision-making (for example, team reviews). Further enhancements to existing quality-assurance processes will be introduced to ensure that clients applying for the Ontario Disability Support Program are consistently adjudicated. Regular file reviews by the Chief Medical Adviser are now under way.

## SOCIAL BENEFITS TRIBUNAL APPEALS

Applicants who remain unsatisfied after an internal review can appeal to the Social Benefits Tribunal, an independent body that operates at arm's length from the Ministry. The Tribunal hears two types of ODSP appeals: disability-determination decisions relating to an applicant's eligibility for benefits and income-support decisions, which generally relate to disagreements over amounts to be paid and/or recovery of overpayments.

In many cases, a Legal Aid Ontario lawyer represents applicants at the Tribunal. In fact, Legal Aid Ontario estimates that for its fiscal year ending March 31, 2009, its clinics represented approximately 7,500 ODSP cases that will cost approximately \$15 million, almost one-quarter of its annual budget.

For the year ending March 31, 2009, the outcomes of the Tribunal's deliberations are outlined in Figure 4.

The average length of time between the request for an appeal and a tribunal member's decision is approximately one year. In the fiscal year ending March 31, 2009, tribunal members overturned some 55% of ministry decisions, which is about 10% lower than the corresponding average rate in the previous two years and 20% lower than at the time of our 2004 audit. However, given the significant increase in appeals, from some 2,700 in 2003 to some 8,000 in 2009, the total number of appeals that resulted in a decision being overturned more than doubled to almost 4,400.

The Ministry retained a consultant to investigate the reasons for the relatively high rates at which the Tribunal overturned its DAU decisions. The consultant identified a number of factors that may contribute to the relatively high overturn rate. The three most significant factors were:

- The appellant appears in person at the tribunal hearing, but not during the DAU process, which is essentially a paper file review.
- Although legal counsel often represent the appellant at the Tribunal, the Ministry's six case-presenting officers appeared only about one-quarter of the time to explain the Ministry's legal submission and rationale for denying the initial appeal.
- The Ministry and Tribunal use different criteria and processes for making decisions. For example, the DAU often denies benefits if evidence is conflicting, whereas the Tribunal seems to favour the appellant if the evidence is inconsistent or where ambiguity exists.

In addition, the consultant noted that the Tribunal and the DAU appear to have a different interpretation of case law such as *Gray vs. Director of ODSP* (Ontario Court of Appeal, 2002), which broadened and liberalized the legal definition of a person with a disability under the Act.

These issues notwithstanding, the consultant also noted that many tribunal members had an overturn rate of 100%, while one member upheld every DAU decision.

**Figure 4: Social Benefits Tribunal Decisions, 2008/09**

Source of data: Social Benefits Tribunal

Type of Appeal	Decisions Overturned		Decisions Upheld		Decisions Varied		Total Appeals
	#	% of Total	#	% of Total	#	% of Total	
income support	206	21	567	57	217	22	990
disability determination	4,182	59	2,517	36	341	5	7,040

### RECOMMENDATION 3

To reduce the need for, and cost of, appeals and the relatively high rate at which the Social Benefits Tribunal overturns Ontario Disability Support Program eligibility decisions, the Ministry of Community and Social Services should consult and work with the Tribunal to narrow the differences in approach to, and criteria used in, assessing individuals with a disability. In addition, to ensure that its rationale for denying a claim is clearly communicated to the Tribunal, the Ministry should ensure that it is represented by a case presenting officer at every hearing.

### MINISTRY RESPONSE

The Ministry is in the process of analyzing the factors that may contribute to the Social Benefit Tribunal's overturn rate of the Disability Adjudication Unit's decisions. On the basis of this review, the Ministry will identify potential legal, policy, or administrative strategies to address the issues.

The Ministry is also in the process of reviewing how services can best be delivered, taking into account the bounds of existing resources.

## ELIGIBILITY REASSESSMENTS/ CONSOLIDATED VERIFICATION PROCESS

### Financial Eligibility Reassessments

It is the Ministry's policy that each local office should conduct a financial eligibility reassessment,

or Consolidated Verification Process (CVP), on 2% of its active caseload every month. In other words, approximately one-quarter of all active cases are to be reviewed every year. To help with the case-selection process, the Ministry's head office produces a number of ad hoc reports for local offices that identify potential high-risk recipients, either specifically or by profile.

Although local offices generally met their monthly goal of conducting financial eligibility reassessments on 2% of active cases, the files reviewed were generally not selected from the high-risk group. Only one of the three regions we visited provided us with information on the review of high-risk cases and, in that region, just 15% of those cases were reviewed in the 2007/08 fiscal year.

In addition, financial eligibility reassessments suffered from many of the same deficiencies previously noted for initial financial eligibility assessments. In most cases, the required third-party verifications of income and assets were not performed. The individual's income and assets were determined solely on the basis of his or her declaration and from the review of just a single monthly bank statement, which cannot be relied on to give an accurate picture. We even noted that in some cases there were no new declarations obtained and no new bank statements reviewed.

As noted later in this report, it is our view that if financial eligibility reassessments had been conducted on high-risk cases, and if the required procedures had been followed, there is the potential for overpayments to be significantly reduced. For example:

- A family of four started receiving \$900 in monthly income support in 1996. Over the

next two years, the Ministry received five complaints from five different people questioning the family's eligibility, including two complaints within the first two months of benefits being paid. One of the complainants noted that family members regularly drove new vehicles, including a new imported SUV. Although a financial eligibility reassessment was conducted on this recipient in 1999 (after the five complaints were received), the reassessment did not investigate those complaints—and the benefits continued. Although a more in-depth investigation of this recipient's financial eligibility commenced in 2001, that investigation was not completed until 2005, at which time an overpayment of \$104,000 was confirmed. The overpayment factors included undeclared income, undeclared assets, and cohabitation. At the time of our audit, the recipient was repaying this overpayment through \$60-per-month deductions from current income support.

- A husband and wife started to receive \$1,400 in monthly income support in 1994. In 1999, the Ministry's fraud hotline received a tip that they were ineligible, but this tip was never acted upon. In both 2001 and 2002, the recipients were identified as high-risk and therefore deserving of a financial reassessment. However, these reassessments did not take place. Finally, in 2004, a detailed financial eligibility reassessment found that the recipients had been living outside the country, not permitted under the Act, since 1998 and had received overpayments totalling \$95,000. None of this overpayment amount has been recovered.
- A recipient and dependent adult started to receive \$1,040 in monthly income support in 1991. In both 2001 and 2002, the recipient's file was identified as in need of a financial eligibility reassessment, but no reassessment was undertaken during those years. Although a reassessment did take place in 2003, it did not result in any benefit adjustments. Another

financial eligibility reassessment in 2006 found that the recipient had been receiving CPP disability payments since 1995, and that the amount of those payments made the recipient financially ineligible for income support. As a result, an overpayment of \$111,000 was established, and benefits were terminated. None of this overpayment has been recovered.

In most cases, including the preceding examples, the Ministry has had little success in getting recipients to repay overpayments, nor are overpayments resulting from what would appear to be fraudulent representations referred to the police in most cases. We are concerned that individuals who receive ODSP income support under potentially fraudulent circumstances may have little reason to fear any consequences—even if they are caught.

#### RECOMMENDATION 4

To ensure that recipients continue to be financially eligible for Ontario Disability Support Program benefits and to avoid overpayments, the Ministry of Community and Social Services should:

- ensure that recipients identified as high-risk are prioritized for review;
- comply in all cases with its own requirement to verify an applicant's declared income and assets with the third parties with whom the Ministry has information-sharing agreements; and
- be more proactive in following up on those tips that come from what appear to be bona fide sources.

#### MINISTRY RESPONSE

The Ministry agrees and has implemented in the 2009/10 fiscal year a revised risk-based approach to Ontario Disability Support Program (ODSP) financial eligibility reassessments. Future enhancements to this approach will include the development of a risk model for

social assistance that will help to ensure that only eligible recipients remain on the program.

Also, to further support compliance with third-party-check and other eligibility review processes, the Ministry will be implementing a series of tools to reinforce its program management and oversight to ensure that all requirements of ODSP service delivery are met.

As noted above, the Ministry is introducing a new initiative that will streamline the ODSP case-management structure. An integral part of this restructuring will be a clarification of accountabilities for all staff involved in the delivery of the ODSP, including managers. Training and revised business processes will help to strengthen case-management activities related to verifying eligibility information received from outside parties.

### Management of Outstanding Tasks

The Ministry's Service Delivery Model Technology information system has a feature that allows the assignment of tasks and corresponding completion target dates to individual case files, as well as the tracking of outstanding tasks. A task is essentially a "to do" item that normally entails obtaining or verifying the information necessary to establish the continued eligibility of a recipient and/or the correct amount of assistance. Tasks are system-generated for such things as recipients reaching the age of 60 or 65 (at which time they may qualify for CPP or Old Age Security and receive income that could make them ineligible for ODSP benefits). Many of the remaining tasks are entered manually and are triggered by, for example, a complaint about a person's eligibility or information obtained from third parties through the information-sharing agreements.

It is essential that caseworkers review all outstanding tasks on a timely basis so that any necessary changes can be made promptly and overpayments can be avoided.

Outstanding tasks have increased significantly since the time of our last audit. As of December 2008, there were more than 206,000 outstanding tasks recorded in SDMT, 49,000 of which were overdue by a significant amount of time, with many overdue by more than five years. At the time of our 2004 audit, there were some 57,400 outstanding tasks, excluding approximately 17,000 relating to overdue medical eligibility reassessments. The increase in outstanding tasks is particularly worrisome because it could affect an individual's eligibility for benefits, the likelihood of which is increased by the fact that there are no policies or procedures that require supervisory staff to review and monitor long-outstanding tasks. As a result, the information necessary to assess the eligibility of recipients and determine the correct amount of assistance may often not be obtained on a timely basis.

### RECOMMENDATION 5

To ensure that Ontario Disability Support Program benefits are paid only to eligible individuals and in the correct amount, the Ministry of Community and Social Services should monitor case-management activities to ensure that tasks entered into its Service Delivery Model Technology information system are followed up on promptly and that appropriate actions are taken to avoid overpayments.

### MINISTRY RESPONSE

The Ministry agrees and has since simplified the technology relating to system-generated tasks. It is also reviewing current business processes for potential refinements or opportunities for improvements from a technology modernization perspective.

As noted above, the Ministry is introducing a new initiative that will streamline the Ontario Disability Support Program (ODSP) case management structure over the next two years. An integral part of this restructuring will be a clarification of accountabilities for all staff involved

in the delivery of ODSP, including managers. This will include clarification of expectations with respect to the monitoring of overdue tasks.

## Medical Eligibility Reassessments

An ODSP regulation and policy require that when a person is determined to have an eligible disability that may improve, a follow-up review must occur within two to five years. In the three-year period from 2006/07 to 2008/09, the DAU determined that just under half of the approved ODSP applicants, or approximately 24,000 individuals, had an eligible disability that might improve. All were, therefore, designated for review.

However, the legislative requirement for medical reassessments notwithstanding, the Ministry has failed to conduct any such reassessment since 2002. In fact, during the 2005/06 fiscal year, the Ministry removed 34,000 recipients considered at low risk of improvement from the list requiring a medical reassessment but was unable to demonstrate how the low-risk determinations were made for those recipients.

At the time of our audit, there were 37,000 individuals who had been identified as requiring a medical reassessment to ensure that they were still eligible to continue receiving benefits. Of those, 11,000 were overdue as of March 31, 2009, many by several years.

### RECOMMENDATION 6

To comply with the *Ontario Disability Support Program Act* and to ensure that only eligible ODSP recipients continue to receive benefits, the Ministry of Community and Social Services should conduct the required medical reassessments within the legislated time frame.

### MINISTRY RESPONSE

The Ministry is pleased to have introduced a new service standard with respect to the initial

adjudication of applications to the Ontario Disability Support Program (ODSP). While we have focused our resources and efforts on significantly improving initial adjudication timelines, the Ministry recognizes the importance of ensuring that only those individuals who have an ongoing need for ODSP continue to receive benefits. Therefore, the Ministry began conducting medical reviews in spring 2009. The Ministry will strive to conduct medical reviews within the required time frame.

## Income-support Payments to Individuals

Given our concerns with respect to the effective implementation of both the initial and subsequent financial eligibility assessment processes, we reviewed a sample of payments and corresponding files. We noted the following:

- Payments to individuals sampled commenced significantly later than the Ministry's prescribed 21 calendar days after the DAU notified an ODSP office that the applicant had an eligible disability and was, therefore, entitled to benefits. On average, payments to recipients sampled commenced late almost 60% of the time, with the average delay being 58 days. In many cases, there were delays of more than 100 days; one case was delayed 195 days, or six-and-a-half months. These delays in receiving approved benefits offset to a significant degree the good progress made since our last audit in expediting the initial medical assessments.
- In a few cases, information on file was incorrectly considered in determining the benefits entitlement, which resulted in either overpayments or underpayments. For example, the fact that one individual was incarcerated for 50 days and in receipt of CPP benefits was not considered correctly, resulting in overpayments of \$4,200 over eight months.

Similarly, a caseworker failed to consider a recipient's written confirmation and supporting documentation that his orphan benefits under CPP had been discontinued, which resulted in an ODSP underpayment of \$200 per month, or \$1,000 at the time of our audit.

Although the individual amounts of overpayments in our sample were generally small, collectively they may well be significant.

We also noted that, province-wide, the total spent on special dietary allowances has increased substantially since the time of our last audit in 2004. At that time, the payments totalled \$18.1 million; in the 2008/09 fiscal year, the amount exceeded \$104 million, more than a five-and-a-half fold increase. We found that many payments for special dietary allowances to purchase particular foods, which must be authorized by an approved health professional, seemed questionable. For example, for one family of 10, all 10 people received a monthly special dietary allowance totalling \$2,475 per month, resulting in total monthly ODSP assistance of \$4,163, or nearly \$50,000 per year, tax-free. Another example concerned a family of nine, where all nine received a monthly special dietary allowance totalling \$2,194 per month, resulting in total monthly income support of \$4,540, or nearly \$55,000 per year, tax-free. In addition, we found that, in some cases, payments for supplementary benefits such as community start-up and special dietary allowances were made without the required documentation and receipts being on file.

## RECOMMENDATION 7

To ensure that eligible applicants receive the correct financial entitlements within a reasonable time frame, the Ministry of Community and Social Services should ensure that:

- Ontario Disability Support Program payments start within the prescribed 21 calendar days of the determination that the person has an eligible disability;

- all of the information necessary to determine the correct amount of benefits is on file and correctly considered before payments are made; and
- suspicious or unusual circumstances, including those relating to the special dietary allowance, are appropriately flagged for additional follow-up.

## MINISTRY RESPONSE

The Ministry agrees and is taking steps to ensure that eligible applicants receive the correct financial entitlements within a reasonable time frame.

The Ministry will be implementing a series of tools to reinforce its program management and oversight to ensure that all requirements of Ontario Disability Support Program service delivery are met.

## OVERPAYMENTS

### Determination

Overpayments occur when recipients are paid more assistance than they are entitled to receive. Information contained in the Ministry's computerized SDMT tracking system indicates that outstanding overpayments have increased substantially since the time of our last audit in 2004. The total estimated overpayments now stand at \$663 million, compared to \$483 million in our earlier audit. Figure 5 shows the increase in overpayment amounts, and Figure 6 shows the number of cases involved.

The reason for any overpayment and how the overpayment was calculated should be properly documented in either SDMT or the recipient's paper file. In practice, this is often not the case. For example, with respect to information in SDMT, we noted the following:

- The reason for an overpayment is often too general; for example "eligibility change" is

often cited, which makes it difficult to attribute the overpayment to specific changes in circumstances.

- The SDMT often does not show how the overpayment was arrived at, making it impossible for the caseworker to determine how the amount was calculated so that an explanation can be provided to the recipient.
- If the caseworker makes multiple changes of information in SDMT at once, each of which results in an overpayment, the system often does not record all of the overpayments.
- The system cannot calculate overpayments incurred prior to 2002, the year SDMT was introduced.

Given the above lack of detail in SDMT, caseworkers in most instances do not attempt to verify

the completeness and accuracy of the overpayment information recorded in SDMT.

### Collection

ODSP benefits are subject to deductions to recover any prior overpayments under the *Ontario Works Act* as well as the *Ontario Disability Support Program Act*. Current ODSP benefit deductions can also be used to recover prior overpayments under these acts' predecessors, the *General Welfare Assistance Act* and the *Family Benefits Act*. In all cases, overpayments are calculated without interest.

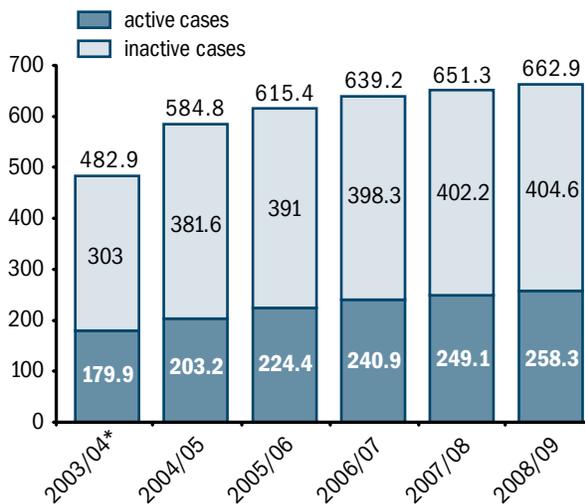
### Overpayment Recovery—Active Accounts

Overpayments on active accounts are recovered primarily through automatic deductions from the recipient's monthly income-support allowance. The maximum allowable monthly deduction is 10% of the recipient's combined basic needs and shelter allowance. In practice, however, the Ministry imposes just a 5% repayment rate, half the legislated maximum. The monthly deduction can be further reduced or eliminated entirely should the Ministry determine that a 5% benefit reduction would cause the recipient undue hardship. Although the Ministry was unable to provide us with the number of active overpayment cases for which no recoveries are being made, we found among the files we reviewed that about one in five overpayment accounts was being exempted from deductions.

The amounts of overpayments being collected from active cases through automatic deductions of current benefits are shown in Figure 7.

**Figure 5: Total Overpayments, 2003/04–2008/09 (\$ million)**

Source of data: Ministry of Community and Social Services



\* Amounts are as of December 31, 2003, as reported in our 2004 Annual Report.

**Figure 6: Overpayment Cases, 2003/04–2008/09**

Source of data: Ministry of Community and Social Services

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
active cases	61,500	63,605	67,481	74,477	70,963	70,550
inactive cases	71,000	84,081	83,809	84,232	84,249	83,415
<b>Total</b>	<b>132,500</b>	<b>147,686</b>	<b>151,290</b>	<b>158,709</b>	<b>155,212</b>	<b>153,965</b>

**Figure 7: Overpayments (written-off and collected)**

Source of data: Ministry of Community and Social Services

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
<b>Amounts Collected</b>						
active cases (\$ million)	31.6	32.6	37.2	39.8	39.5	37.0
inactive cases (\$ million)	16.2	10.6	9.5	8.6	8.1	8.4
<b>Written-off</b>						
amount (\$ million)	–	5.7	7.9	10.8	5.6	12.0
# of cases involved	–	5,984	2,319	4,554	1,827	13,430

Our review of a sample of active accounts in which overpayments were being recovered from current benefits found that payment amounts were generally small in relation to the amount of overpayment. As a result, recovering even a small portion of the total overpayments will take many years and full recovery is unlikely. For example:

- One individual owing \$78,000 had his current benefits reduced by \$10 per month. If the recipient made no other form of repayment and the recovery rate remained the same, it would take approximately 650 years to collect the outstanding amount.
- Benefits of another individual with a \$102,000 overpayment were being reduced by \$58 per month. If the recipient made no other form of repayment and the recovery rate remained the same, it would take approximately 147 years to collect the outstanding amount.

Given many recipients' general inability to repay overpayments, it is all the more important to strengthen internal controls and avoid such overpayments in the first place.

### Overpayment Recovery—Inactive/Terminated Accounts

As was the case at the time of our last audit in 2004, the Ministry's initial collection effort for inactive/terminated accounts consists of sending three "dunning letters" (debt notices) over a 60-day period, requesting that the debtor arrange a plan to repay the outstanding amount. If there is no response

within 30 days of the third letter being sent, it has been the Ministry's practice since 2005 to transfer the account to its internal Overpayment Recovery Unit (ORU)—in effect, an in-house collection agency.

The ORU sends an additional two dunning notices. The first advises the recipient that the recovery unit has been assigned responsibility for the debt and unless arrangements are made within 30 days to pay the outstanding amount, the Ministry will garnish any future tax refunds from the Canada Revenue Agency. Before taking this step, the unit sends a second and final letter, providing another 15 days to settle the amount owing.

Our review of a sample of overpayment files found the following:

- About 40% of overpayment cases had not been transferred to the ORU as required, even though the overpayment had been known, on average, for about three years. We were advised that, in most cases, the reason for not transferring the file was a lack of resources to do the necessary paperwork.
- About 50% of eligible files were transferred to the ORU between a year or two after the overpayment was identified.
- About 10% of the accounts were ineligible for transfer to the ORU for a variety of reasons, which in many cases included a pending appeal to the Social Benefits Tribunal of the amount outstanding.

Summary information provided to us by the ORU indicated that in the period from the unit's

inception in October 2004 to March 31, 2009, the unit received and is currently administering approximately 23,000 overpayment accounts from inactive or terminated accounts with a total value of \$141.8 million. (This does not include approximately 28,000 accounts totalling \$42 million that was written off during that time.) With respect to these 23,000 accounts, we found the following:

- About 3,200 accounts totalling \$12.4 million have not been subject to any collection effort, many for more than two years.
- About 5,300 accounts totalling \$40.2 million have been subject to collection efforts, but with no success to the time of our audit.
- About 14,500 accounts with an outstanding balance of \$89.2 million have been either referred to the CRA or have entered into voluntary repayment plans for which some amount has been collected. However, the amounts collected from 6,300 accounts since the inception of the unit total just \$7.6 million, or approximately 5% of the original \$141.8 million in identified overpayments transferred to the unit since 2004.
- Overpayments forwarded to the ORU are not reviewed or assessed with respect to the individual's ability to pay. As a result, the Ministry is unable to take advantage of the opportunity to focus on the recovery of amounts from former recipients who, for example, have returned to work or acquired liquid assets of considerable value and, therefore, have the means to pay.

### Temporarily Uncollectible Overpayments

As of March 31, 2009, the Ministry has designated \$59 million of overpayments as “temporarily uncollectible.” Of this amount, approximately \$43 million relates to overpayments transferred from predecessor programs. These monies are considered uncollectible largely because the overpayments are poorly supported and/or have been outstanding for prolonged periods of time ranging as high as 16 years.

Most of the remaining amounts are designated temporarily uncollectible for several reasons, including hardship on the recipients or because the Ministry cannot substantiate the amount overpaid.

Although the Ministry advised us at the time of our last audit in 2004 that it intended to establish the validity and collectibility of all the then-outstanding overpayments by December 2005, this has not occurred. Given that little has been done for so many years to collect this money and that most of the overpayments were made years ago, we doubt whether the Ministry will ever collect much of the \$59 million. If this is indeed the case, these accounts should be written off.

### RECOMMENDATION 8

To better utilize its limited resources and help maximize the recovery of Ontario Disability Support Program overpayments, the Ministry of Community and Social Services should:

- devote more efforts to minimize overpayments in the first place, given the limitations in recovering significant overpayments from active and inactive recipients;
- ensure that overpayments from inactive accounts are transferred to, and followed up on by, the Ministry's Overpayment Recovery Unit on a timelier basis, with emphasis on accounts that are considered to have the most potential for repayment; and
- assess the validity and collectibility of outstanding overpayments designated as temporarily uncollectible and, where warranted, recommend that they be written off so that attention can be focused on those accounts where collection efforts are likelier to yield results.

### MINISTRY RESPONSE

The Ministry agrees that overpayment recovery must be maximized and has recently implemented business and technology changes to improve the recovery of overpayments.

To minimize the possibility of overpayment, the Ministry recently introduced changes to the way that Ontario Disability Support Program (ODSP) recipients report income. The Ministry will continue with its efforts to mitigate overpayments and has recently implemented a risk-based approach to ODSP financial eligibility reassessments. Future enhancements to this approach will include the development of a risk model for social assistance that will help to ensure that only eligible recipients remain on the program and that the payments they receive are accurate.

Finally, the Ministry is assessing the feasibility of accelerating the write-off of aged overpayments and prioritizing overpayment collection on the basis of recipients' and former recipients' ability to repay.

## CASE MANAGEMENT

### Workload

Our previous audit commented on the then relatively high number of files per caseworker. Subsequent to our 2004 audit, the Ministry hired additional caseworkers. Figure 8 shows the resulting reduction in average caseloads compared to the time of our last audit.

Clearly, the average caseload has decreased significantly from the time of our last audit, by about 35% overall. However, caseloads still varied significantly among the Ministry's nine regional as well as among its 44 local offices, with some offices having double the caseload per caseworker than others. Despite the overall decrease in caseloads, there is little evidence that the quality of work has improved, especially in conducting financial eligibility assessments and in clearing outstanding tasks. Our review of a sample of files continues to show many lingering problems, including, as noted above, a significant increase in overpayments since our last audit.

**Figure 8: Caseload Comparison, December 2003 and March 2009**

Source of data: Ministry of Community and Social Services

	December 2003	March 2009	% Decrease
<b>Average, All Regions</b>	<b>389</b>	<b>266</b>	<b>32</b>
<b>Regional Averages</b>			
highest	465	318	32
lowest	340	230	32
<b>Local Office Averages</b>			
highest	not available	351	
lowest	not available	161	

Furthermore, the Ministry has no standards in place to assess whether staffing is sufficient to adequately perform all necessary case-management functions and to ensure that the ODSP program is well administered.

We also noted that caseworkers in the three regions we visited took, on average, more than 20 sick days per year, which compares unfavourably to the overall Ontario Public Service average of about 10 days per year.

## RECOMMENDATION 9

To ensure that Ontario Disability Support Program caseworkers can effectively carry out their responsibilities, the Ministry of Community and Social Services should:

- assess caseworkers' responsibilities and work processes to establish reasonable caseload benchmarks in each of the 44 local offices; and
- strengthen efforts to monitor sick leave and set targets for reducing absenteeism to more reasonable levels.

## MINISTRY RESPONSE

The Ministry continues to review how services can best be delivered within the bounds of existing resources. Building on business and technical improvements, to assist with case

management, the Ministry is planning to implement a new Ontario Disability Support Program (ODSP) service delivery model that will simplify the way ODSP recipients are supported and address staff workload issues. At the same time, the Ministry will strengthen measures to monitor sick-leave usage and ensure that the Ontario Public Service Attendance Support Program is applied appropriately province-wide.

### Service Delivery Model Technology System

The Ministry's Service Delivery Model Technology system, the primary information technology network to support social assistance delivered by both Ontario Works and ODSP, was implemented province-wide in early 2002. It was developed to provide a common database with real-time access to case information and to reduce administrative costs while freeing up caseworker time to allow for better customer service to applicants and recipients.

However, as was the case at the time of our previous audits—of Ontario Works in 2002 and ODSP in 2004—we found that caseworkers still expressed considerable dissatisfaction with the SDMT system.

Concerns expressed included the following:

- SDMT continues to make errors that ministry staff cannot explain. For example, although

the system is supposed to automatically detect all Ontario Works payments made to a recipient during any period for which ODSP benefits are granted retroactively, automatic deductions for duplicate Ontario Works payments were often not made, resulting in overpayments.

- Regional and local offices are not receiving, in an easily understandable format, the information they need to effectively oversee program expenditures. For example, some pre-programmed reports are incomplete and inaccurate. As a result, ministry staff have created manual systems or workarounds for tracking functions such as intake, internal reviews, and tribunal appeals.

In addition, the system lacks certain basic internal controls. For example, frontline caseworkers have the ability to create a client file, initiate and approve payments, and close files without supervisory review and approval. In effect, they have considerable powers to act without management's knowledge.

A more complete discussion of the issues and concerns with respect to the SDMT system is included in this chapter's VFM Section 3.11 on the Ministry's Ontario Works program.