

Left in the Lurch



**The Destabilizing Reality of
Toronto's Housing Stabilization Fund**

Table of Contents

Introduction	1
The Housing Stabilization Fund in Toronto	2
Problems with the Housing Stabilization Fund.....	4
<i>Discrimination Against Disabled People and Families</i>	4
<i>Treatment of Assets</i>	6
<i>Arbitrary Limits On Furniture Eligibility</i>	6
<i>Bed Bug Policy</i>	6
<i>Worn-out Furniture Policy</i>	7
<i>Lack of Transparency Around Decision-Making</i>	8
<i>Refusal To Release the HSF Adjudication Policy</i>	8
<i>Refusal to Provide Adequate and Accurate Details</i>	9
<i>Opaque and Compromised Internal Reviews</i>	9
<i>Section Summary</i>	10
Moving Forward	10
Demands.....	12
References.....	13
Appendix A: HSF Policy.....	14
Appendix B: HSF Furniture Issuance Guidelines	20
Appendix C: HSF Eligibility Assessment	21

Written by the **Ontario Coalition Against Poverty**
with the **South Asian Legal Clinic of Ontario**
September 2016
Toronto, ON

#HSFjustice

Introduction

The Housing Stabilization Fund (HSF) is an emergency housing needs fund administered by Toronto Employment and Social Services (TESS). It is accessible to Ontario Works (OW) and Ontario Disability Support Program (ODSP) recipients in Toronto. Its stated mandate is to “**prevent homelessness** by meeting the emergency housing needs of Toronto residents.”¹ In a city plagued by a severe shortage of public housing and steep, ever-rising rents, the importance of a fund that is often the only barrier between people being housed and being homeless cannot be overstated. Over 30,000 social assistance recipients have applied for the HSF every year since its creation, seeking financial assistance for emergency housing costs that simply cannot be covered by existing OW and ODSP benefits.

The fund was created by the City of Toronto in January 2013 after the provincial Liberals announced the elimination of the Community Start-Up and Maintenance Benefit (CSUMB) in the 2012 budget. At \$110 million, the CSUMB constituted the largest chunk of the total of \$133 million cut from social assistance benefits that year,² the largest reduction in benefits in nearly 20 years. The province then downloaded the responsibility of creating and administering funds for meeting emergency housing needs onto municipalities, but provided less than half the money allotted to the CSUMB. Some municipalities, like Toronto, created funds replicating the CSUMB; others did not. The resulting effect on the nearly 200,000 social assistance recipients across the province who accessed the CSUMB was disastrous. Overnight, access to critical housing funds that helped curb homelessness became contingent on where one lived, the eligibility criteria varied widely, and the benefit itself went from being mandatory to discretionary.

Another significant change was that denials of applications to the newly formed fund could no longer be appealed to the independent Social Benefits Tribunal. Since the introduction of the HSF, applicants only have access to an opaque ‘internal review’ process. Furthermore, most municipalities, Toronto included, have kept the policies that guide the adjudication of the newly formed funds under wraps. This has effectively meant that applicants have no way of determining if denials are in fact consistent with the adjudication policies, or if an error has been made. The combination of these two factors has paved way for rampant arbitrariness in decision-making, examples of which are rife in TESS’ administration of the HSF.

Furthermore, since the municipal funds that replaced

CSUMB are capped funds, rather than needs-based entitlements, access to them is no longer solely contingent on the applicant’s need, but also on whether there is sufficient money left in the already shrunken pot of funds. For instance, 192,000 people applied for the CSUMB in 2012, resulting in \$110 million actually being spent on the benefit.³ If more had applied, and were found eligible, that \$110 million number would have gone up. The fund was, in other words, tied to need. However, beginning in 2013, only half of the money spent on CSUMB in previous years was made available provincially and then distributed to the municipalities to administer. This has meant a substantial reduction in access to the benefit, thus posing a serious threat to people’s ability to stay housed.

Many municipalities, as mentioned before, did not create CSUMB-like funds, and those that did, restricted eligibility criteria, leaving far fewer people with the ability to have a successful application. Also, since the fund is no longer tied to need, once the allotted municipal amounts are spent, remaining applicants are left in the lurch, and likely on the street.

The province downloaded the responsibility of creating and administering funds but provided less than half the money allotted to the CSUMB.

It is within this context that the HSF was formed in Toronto. Its administration since has been the source of significant frustration and concern for HSF applicants and their advocates. Recently, following a very public fight around a case of a disabled mother on ODSP being denied the HSF, TESS was forced to release three documents containing the HSF adjudication policies to the Ontario Coalition Against Poverty (OCAP). Based on an analysis of these documents and OCAP’s past experience dealing with the HSF bureaucracy, this report identifies key issues with the administration of the HSF and lays out clear demands for necessary changes.

The report is divided into three sections: the first, ‘The Housing Stabilization Fund in Toronto’ provides an overview of how the HSF currently operates; the second, ‘The Problems with the HSF’ details the two key issues with HSF adjudication; and, the third, ‘Moving Forward: Eradicating Discrimination and Ensuring Justice,’ puts forward demands for changes that are necessary.

1. Toronto, *Housing Stabilization Fund*, emphasis in original.

2. Income Security Advocacy Centre, Ontario (ISAC) Budget 2012, p. 3, emphasis in original.

3. Ibid, p. 2.

The Housing Stabilization Fund in Toronto

When compared to the CSUMB, the eligibility criteria for the HSF is significantly more restrictive, leaving fewer people eligible to apply.¹ For example, in 2012, in its final year in operation, the CSUMB provided critical financial assistance to 49,000² social assistance recipients in Toronto. By comparison, last year, the HSF was issued to 24,500³ social assistance recipients in the City, exactly half the number of people assisted in 2012. However, the need for an emergency housing fund for people on social assistance has only gotten more severe. In the period between 2012 and 2016, the Consumer Price Index (CPI), or cost of living in the province, rose by 7%,⁴ food prices increased by 10%,⁵ and average market rents in the City went up by 5%,⁶ if not more. Since social assistance rates haven't kept up with these trends, poor people today have even less money to spare for housing emergencies than they did before. The HSF, in

can receive up to half their maximum entitlement for assistance with paying first and last month's rent, rental or energy arrears, and moving expenses, and the other half for buying essential furniture.

For example, a single person moving within the Greater Toronto Area could access up to \$800 for costs associated with moving and up to another \$800 for buying essential furniture, for a combined total maximum of \$1600. A family with adult dependents in the same situation, could

access up to \$1000 for moving costs and up to another \$1000 for buying essential furniture, and so on.

Applicants, whether on OW or ODSP, have to apply for access to the fund via their caseworkers. However since the HSF is administered through TESS, only OW workers have

access to the adjudication policies, creating a significant communication gap for ODSP applicants, whose workers do not have the requisite policy knowledge to adequately advise or advocate for their clients. Shockingly, this discrepancy, which was first brought to TESS' attention in 2013,¹⁰ continues to be an issue to this day. The effect is most noticeable in the rates of rejection ODSP applicants face. Nearly one in four (23%) ODSP applicants faced rejection in 2013, a figure that rose to just over one in three

HSF Eligibility by Family Size⁷

Family Size	Maximum Allowance
Singles and Couples	\$1600
Families with Adult Dependents	\$2000
Families with Children	\$3000
Children in Temporary Care	\$800 /child

Even in cases where they meet the eligibility criteria, most applicants receive only a portion of the amount they are entitled to.

other words, is an indispensable fund for people on social assistance, and how it is administered has a crucial impact on the ability of poor people to obtain and retain housing.

The HSF is setup to provide social assistance recipients in Toronto financial assistance ranging from \$800 to \$3000, depending on the applicant's family size. The amounts reflect **maximum entitlements** applicants can receive. In practice, however, even in cases where they meet the eligibility criteria, most applicants receive only a portion of the amount they are entitled to. For example, based on the available data, the average issuance per application in 2013 was \$728,⁸ and in 2014 was \$907.⁹ The reasons for this are detailed in the next section of this report. The entitlement amounts listed in the table

1. Compare CSUMB eligibility criteria: Wellesley Institute, *The Real Cost of Cutting the Community Start-Up*, p. 2; Toronto, *Housing Stabilization Fund*.
2. TESS Staff Report, *Implementing the Housing Stabilization Fund*, p. 4.
3. Pasternak, Letter to the Community Development and Recreation Committee, "Reviewing key aspects of the Housing Stabilization Fund."
4. See Statistics Canada, *Consumer Price Index, by province, (Ontario); Consumer Price Index, by province (monthly)*
5. Ibid.
6. Commisso, "Rent prices among casualties of hot housing markets."
7. Toronto, *Housing Stabilization Fund*.
8. Averaging figures reported in TESS Staff Report, *2013 Year End Report*, p. 13; TESS Staff Report, *2014 Update on Delivery*, p. 11.
9. TESS Staff Report, *2014 Update on the Delivery*, p. 11.
10. TESS Staff Report, *Implementing the Housing Stabilization Fund*, p. 8, 9.

(32%) in 2014.¹ Similar data for 2015 is not publicly available and TESS denied a Freedom of Information request from OCAP asking for the same. A major contributing factor to these rejection rates is also the fact the HSF adjudication policies themselves are discriminatory, as the next section will describe in detail.

When denials are issued, applicants are provided the opportunity to apply for an internal review within 30 days

TESS buckled as pressure mounted, and inconsistencies in its handling of Ms. Bardeau's case became embarrassing.

of receiving the decision letter. In its early days, reviews were conducted by a supervisor, but are now conducted by a newly established Appeals Review Unit. These reviews typically consist of another worker from the Unit evaluating the original decision. If the worker upholds the prior denial, applicants are told they can apply for a final review by the Decisions Review Committee, however, no information about the Committee—who comprises it, and how often it meets—is publicly available.

Since 2013, TESS has conducted two different sets of 'community consultations' to evaluate its administration of the HSF, one in April 2014, and another in February 2015. The results have startling similarities. Both sets of consultations identified four persistent issues with the HSF administration, which are documented in the March 2015 report TESS presented to City Council. These are:

- Inconsistent decision making by TESS staff;
- Lack of timeliness in decision making and issuance of benefits;
- Lack of awareness of the HSF among OW and ODSP clients; and
- Unclear communications to HSF applicants related to ineligibility decisions.²

The fact that the situation hasn't changed much in 2016 is perhaps best exemplified by the case that spurred the creation of this report. Laura Bardeau, a disabled mother of two children, living on ODSP, had a bed bug infestation in her apartment in March. She had to throw out all her furniture including most of her children's

belongings, leaving the family with virtually nothing. She applied for the HSF thinking it would provide her money to buy the essentials – a bed to sleep on and a table to eat at. Much to her surprise, her application was denied. She was inexplicably told she made too much money. An application for an internal review only resulted in the original decision being upheld, under the same pretense. Baffled by the decisions, and angered by the ongoing

pattern of arbitrariness, OCAP took up the case and launched a public campaign to get Ms. Bardeau the full HSF amount she was owed and demand the release of the HSF adjudication policies. While initially steadfast in its refusal, TESS buckled as pressure mounted, and inconsistencies in

its handling of Ms. Bardeau's case became embarrassing. Two months into the fight, Ms. Bardeau was issued the full HSF amount she was owed, and three policy documents underlying the adjudication of the HSF were released to OCAP.

This report presents a critique of TESS' administration of the HSF based on these policy documents, which have been made available at the end of this report in Appendix A, B and C.



OCAP protest to get the Bardeau family the HSF

1. TESS Staff Report, 2014 Update, p. 7.
2. Ibid, p. 8.

Problems with the Housing Stabilization Fund

There are two key issues with TESS' administration of the HSF. First, the adjudication policies reveal a troubling pattern of discrimination against applicants who are disabled and those who have children; a violation of their rights under the *Ontario Human Rights Code*. Second, the lack of transparency around decision-making policies and processes leaves applicants unable to understand decisions and seek appropriate redress; a violation of their right to procedural fairness and natural justice. The subsections that follow describe each of these issues in detail.

Discrimination Against Disabled People and Families

The discrimination is a consequence of TESS' treatment of applicants' income and assets, as well as the arbitrary limits it imposes on furniture eligibility.

Treatment of Income

The formula used to determine the amount an applicant is eligible for relies on a two-part calculation. The first involves the calculation of what TESS refers to as the applicant's "excess income." This excess income is then deducted from the amount requested by the applicant. The resulting number is the maximum amount the applicant, in theory, is eligible for, though there are other criteria that can be applied to further restrict that amount.¹

Client monthly income is defined as including income from Ontario Works, Ontario Disability Support Program, Canada Child Benefits, child-support payments, Workplace Safety and Insurance Board, Employment Insurance, rental sources, Ontario Student Assistance Program, and other non-exempt income. 'Other non-exempt income' includes money applicants receive through social assistance benefits such as the Special Diet, Guide Dog allowance, and Employment Related Expenses Benefits.

This means that money allocated for disability related costs like medically necessary food and a service animal is counted

against people who access those benefits. So, if an applicant has a service animal, or needs a special diet, they are less likely to get the HSF.

The listed income exceptions are Assistance for Children with Severe Disabilities, Child Disability Benefit, Diabetic Supplies, Incontinence Supplies, Mandatory Special Necessities Transportation, and earnings of dependent children and adults.

Client monthly needs are defined as the "ODSP Basic Needs for the family size + Actual Shelter Amount + 20% of this total amount." The policy provides no rationale for defining client monthly needs as such.

To illustrate the problems with the formula, let us consider two examples.

Example 1

Consider a social assistance recipient in a position similar to Ms. Bardeau—a single parent on ODSP with two disabled children. The parent in this scenario is requesting \$1500 for replacing furniture (3 beds, 1 couch, 1 table and 3 chairs) lost to a bed bug infestation. The parent receives the Special Diet allowance of \$406 (amount includes Special Diet allowance for the children) and pays market rent of \$1000 for their housing. The parent also receives the Canada Child Benefit (CCB) of \$926 for raising their two children.

Based on the formula, their HSF entitlement would be calculated as follows:

Total Monthly Income:

\$1834 (ODSP Income)
+ \$406 (Special Diet)
+ \$926 (Canada Child Benefit)
<hr/>
= \$3166

Total Monthly Needs:

\$792 (ODSP Basic Needs)
+ \$1000 (Actual Shelter Cost)
<hr/>
= \$1792
+ \$358 (20% of Needs + Shelter)
<hr/>
= \$2150

Now we calculate the "excess income."

The HSF formula:

$$\begin{array}{r} \text{Monthly Income} \\ - \text{Monthly Needs} \\ \hline = \text{Excess Income} \end{array}$$
$$\begin{array}{r} \text{Amount Requested} \\ - \text{Excess Income} \\ \hline = \text{HSF Eligibility} \end{array}$$

Excess Income:

\$3166 (Monthly Income)
 – \$2120 (Monthly Needs)

= \$1016

And finally,

HSF Eligibility:

\$1500 (Amount Requested)
 – \$1016 (Excess Income)

= \$484

Thus, the formula restricts the eligible amount to less than a third of what the person is actually eligible for based on their family unit.

As these examples make clear, the main problem in the formula is TESS' treatment of "excess income." The greater the "excess income" a person is deemed to have, the less the HSF money they are eligible for.

In the first example, what constitutes "excess income" is in fact the Special Diet allowance and the Canada Child Benefit (CCB) the single parent receives. Since the CCB amount would increase with the number of children an applicant has, so would TESS' determination of the applicant's "excess income." As described earlier, an increase in "excess income" would further reduce HSF eligibility. The same would be true if the person received another non-exempt social assistance benefit such as the Guide Dog benefit, as is the case in the second example or other allowances under the Employment Related Expenses benefits.

The Employment Related Expenses benefit includes money for transportation or childcare, among other things, that have been deemed necessary to participate in employment related activities.² People on OW are "required to participate in approved employment assistance activities as a condition of eligibility for assistance" by law unless they have exceptional circumstances (e.g. significant health issues).³ Paradoxically, TESS' HSF policy means people are told they need to use their Employment Related Expenses benefit funds for emergency housing needs, even though it has been determined by TESS that they need those funds to fulfill their participation agreements and failure to do so could result in termination of Ontario Works.

Example 2

A single person on ODSP, who is blind, is requesting \$200 to pay accrued rental arrears. The rent for the rent-gear-to-income (RGI) unit they live in is \$200. In addition to the ODSP income, the person also gets the Guide Dog benefit of \$78 and the Special Diet allowance of \$250 per month.

HSF entitlement would be calculated as follows:

Total Monthly Income:

\$849 (ODSP Income)
 + \$250 (Special Diet)
 + \$78 (Guide Dog)

= \$1177

Total Monthly Needs:

\$649 (ODSP Basic Needs)
 + \$200 (Actual Shelter Cost)

= \$849

+ \$170 (20% of Needs + Shelter)

= \$1019

Excess Income:

\$1177 (Monthly Income)
 – \$1019 (Monthly Needs)

= \$158

HSF Eligibility:

\$200 (Amount Requested)
 – \$158 (Excess Income)

= \$42

Because this person requires a special diet and a service dog due to their disabilities, they are entitled to less than a quarter of what someone who doesn't have these needs would get.

1. See Appendix C for HSF calculations.

2. Ministry of Community and Social Services, *OW Directive 7.4: Employment and Participation Benefits*.

3. Ministry of Community and Social Services, *OW Directive 2.5: Participation Requirements*.

Getting the Employment Related Expenses, Special Diet or Guide Dog benefits or Canada Child Benefit reduces or eliminates the eligibility for HSF. This can mean the difference between getting housing and being homeless; sleeping on a bed and the floor; getting disability related household items and inaccessibility; and, being evicted and retaining a tenancy. For some people, it is the difference between life and death.

In this way the HSF policies are discriminatory towards people with disabilities and those with children, thereby contravening the *Ontario Human Rights Code*. Furthermore, the policies set up contradictory requirements for people on OW, which they have no way of meeting without compromising their primary source of income. It is also reprehensible for TESS to label the money that people on social assistance receive to manage their disabilities, to buy food, or to raise their children as “excess income,” and then expect them to redirect that money towards emergency housing costs. This is especially true in the current context where social assistance rates keep people well below the poverty line.

Treatment of Assets

The HSF eligibility criteria limits the amount of assets an applicant is allowed to have at \$2500. This asset cap is arbitrary and significantly more restrictive compared to asset caps the province imposes on OW and ODSP recipients.

As is evident, the HSF policy of standardizing the asset cap discriminates against couples, people with children or adult dependents, and single ODSP recipients by introducing an asset cap that is much lower than the amount they are typically allowed. This has the effect of unjustly restricting their ability to secure financial assistance from the HSF.

The practice is especially odious because under the provincial directives, ODSP recipients are allowed to accrue assets in excess of their typical limits.

ODSP Income Support Directive 4.1 specifically states that “the allowable asset limit for a benefit unit may be increased to permit the purchase of an item that is necessary for the health of a member of the benefit unit or for disability related items or services.”⁴ This means TESS requires applicants to redirect money they might have saved for purchasing disability-related equipment(s) or services to instead pay for emergency housing needs, a grossly unjust and inhumane requirement.



Arbitrary Limits On Furniture Eligibility

There are two ways in which TESS imposes arbitrary limits on furniture eligibility. First, in cases where HSF applicants request funds for purchasing furniture following a bed bug infestation, TESS only grants funds for purchasing beds, denying all other furniture requests; and second, TESS denies HSF applicants the ability to access funds to replace old, worn-out furniture. These practices not only deny social assistance recipients access to essential furniture, but also fail to accommodate disability-related needs they have.

Bed Bug Policy

As was mentioned earlier, in the case of Laura Bardeau, TESS was eventually forced to release the full \$1500 she was owed. However, initially, TESS argued otherwise. First, they denied her access to the fund outright, but following mounting public pressure, they relented and granted her \$1100 to replace three beds, but still would not release the remaining \$400. They justified this decision by stating

that TESS “will only provide funds for replacing beds when a residence has been treated for bed bugs.”⁵ They refused to provide funds to replace the kitchen table, dressers and couch Ms. Bardeau had also lost to the bed bug infestation.

Difference between HSF, OW & ODSP Asset Caps

Family Unit	HSF ¹	OW ²	ODSP ³	HSF vs. OW	HSF vs. ODSP
Single	\$2500	\$2500	\$5000	\$0	\$2500
Couple	\$2500	\$5000	\$7500	\$500	\$2500
Additional \$ per dependent	\$0	\$500	\$500	\$500	\$500

1. Appendix A, *HSF Policy*, p. 4.
 2. MCSS, *OW Directive 4.2: Asset Limits*.
 3. MCSS, *ODSP Directive 4.1: Definition and Treatment of Assets*.
 4. *Ibid*, p. 1.
 5. Letter to Laura Bardeau from Consilium Place OW office.

TESS was, of course, forced to back down from this position too, and later released the remaining \$400 to Ms. Bardeau, but they called it a “discretionary decision,” implying it would not be replicated for other applicants in Ms. Bardeau’s position.

No mention of a policy that suggests that HSF can only be issued to purchase beds following a bed-bug infestation can be found in the policy documents. In fact, the Furniture Issuance Guidelines actually state “clients **who have lost their possessions** or are being relocated due to fire or flood,” can get access to essential furniture such as “Bed(s), Linens/towels, Sofa, Tables & Chairs, Kitchen Tables,” etc.¹ Thus, determining that only beds can be issued to HSF applicants who apply following a bed bug infestation, is contrary to what the policy actually suggests, making this practice arbitrary, inconsistent and frankly nonsensical given that a bed bug infestation is not limited to just beds.

The same document goes on to specify amounts that can be issued for replacing beds; amounts that “were arrived at through researching prices at various furniture retailers across the GTA.”² No further details are provided about this research, nor an indication of how often the accuracy of the prices is verified. Nevertheless, the amounts, which are to include the “cost of frame, tax and delivery,” in addition to the mattress, are \$300 for a twin bed, and \$500 for a double or queen bed.³ There are no stipulated amounts for any other pieces of furniture. People can’t purchase beds based on their individual needs like they can for other items. For instance, consider a single applicant who, as per policy, is eligible to access funds up to \$800 for furniture needs. If the applicant requests a double bed that costs \$650, TESS would only issue the applicant \$500, even though they

qualify for the full amount. This is a direct result of its unnecessarily restrictive policy of only granting \$500 for purchasing a double bed, irrespective of the circumstances. However, as long as an HSF applicant meets the criteria for HSF, and has a demonstrated need, there is no actual

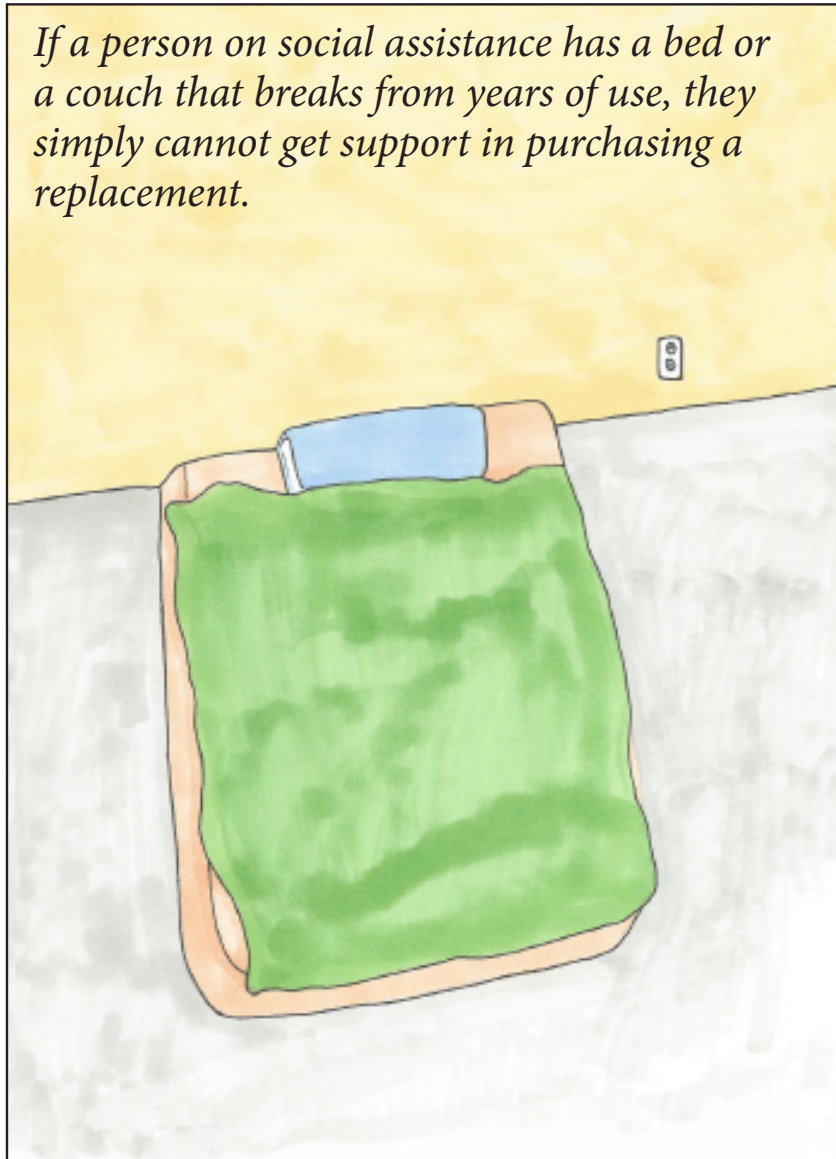
reason to restrict access to funds beyond the limits already imposed by the applicant’s family status.

Worn-out Furniture Policy

The current HSF policy is to deny applicants funds to replace old, worn out furniture. The policy justifies this by classifying worn out furniture as ‘non-essential.’ This means if a person on social assistance has a bed or a couch that breaks from years of use, they simply cannot get support in purchasing a replacement. Unless, of course, they have a bed bug infestation, in which case, they might get funds to replace the bed but not the couch. The decision to restrict funds in this way is rather nonsensical and arbitrary and does not

take into consideration disability related needs applicants have.

If a person on social assistance has a bed or a couch that breaks from years of use, they simply cannot get support in purchasing a replacement.



1. Appendix B: *HSF Furniture Issuance Guidelines*, emphasis added.
2. Ibid.
3. Ibid.

Lack of Transparency Around Decision-Making

In *Baker vs. Canada*, a leading case in Canadian administrative law, the Supreme Court of Canada set out the elements of procedural fairness required of governmental decision-making bodies. The Supreme

allocate resources be free of bias.¹

Another concept in law is that of Natural Justice. It requires that a person be treated with fairness, impartiality and transparency in dealings with administrative bodies..

HSF applicants have a right to procedural fairness and natural justice. Also, given the impact of the funding decisions on HSF applicants, they have a right to fully be heard and be given intelligible reasons for decisions made.

TESS robs HSF applicants of this right. This results from three practices: TESS' refusal to release the HSF adjudication policies publicly, its refusal to provide adequate and accurate explanations of its decisions to applicants, and its opaque and compromised internal reviews.

Refusal To Release The HSF Adjudication Policy Publicly

Despite mounting demands from both HSF applicants and their advocates to release the HSF policy, TESS continues to keep it under wraps. The only publicly available information about the HSF is the summary of its eligibility criteria available on the City of Toronto website. The information provided on the website is vague, incomplete, and at times inconsistent with TESS' interpretation of the adjudication policy.

This means that when HSF applicants are issued denials, or are issued amounts that are below what they request, in most cases there is no way for them to know if the denial, or the amount issued, is in fact consistent with the policy.

This further means people can't know when they should ask for a review, or on what grounds, and they have no



People can't know when they should ask for a review, or on what grounds, and they have no way to argue their case.

Court noted that while the requirements of procedural fairness depend on context, one of the important factors to consider is the importance of the decision to the affected person and their family. Procedural fairness, also requires that processes to resolve disputes and

1. *Baker v. Canada*.

way to argue their case.

For instance, in Laura Bardeau's case, her original application was rejected because the decision maker erroneously counted the Child Disability Benefit (CDB) Ms. Bardeau receives for her kids as income. In the decision letter issued to her, she was simply told she her income was too high. OCAP later discovered, through the policy documents TESS was forced to release, the denial was a mistake made by the worker because CDB is exempt income. If Ms. Bardeau had access to the policy documents, she would have known the precise error made, requested an internal review based on the error, and been successful. Instead, the only option available to her was to request a review without knowing the reason for the refusal. The result, which is quite often the case, was that the original decision was upheld. It took nearly 60 days and a series of public actions by OCAP to get TESS to overturn the flawed decision.

Refusal to Provide Adequate and Accurate Details about HSF Decisions

Compounding the issue is the fact that decision letters are often vague. Ms. Bardeau's initial decision letter, for example, described the reason for denial as "You have assets and/or income to cover the costs of your request." The letter provided no further details as to how or why a single mother with disabilities living below the poverty line, on ODSP, and raising two disabled children, could be said to have sufficient money to cover emergency housing costs.

In yet another case, the decision letter simply stated, "Request Does Not Meet Criteria; Client has been housed since 2011." Being housed, even according to the publicly available information on the City of Toronto website, does not preclude applicants from being eligible for the HSF. Indeed it would be contrary to the mandate of a fund designed to prevent homelessness to do so. Again, the decision letter left the applicant with no understanding of the rationale behind the denial, and therefore in no position to successfully argue it.

Compromising the Integrity of Internal Reviews

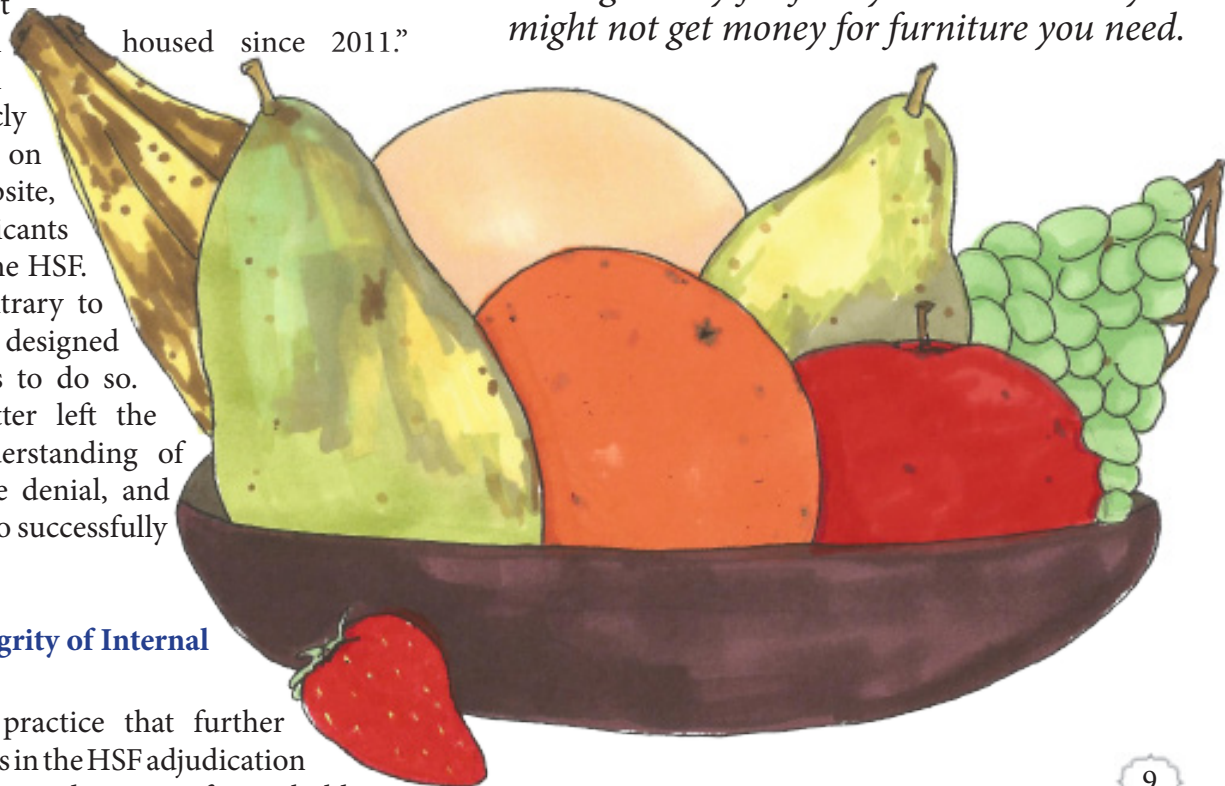
Another troubling practice that further erodes procedural fairness in the HSF adjudication process is that internal review decisions often uphold

denials on grounds that are different from the initial refusal. Instead of limiting the review to an evaluating the merits of the prior denial and its conformity to the HSF adjudication policies, reviewers will often ask applicants for additional documentation or new information, most often through phone calls, which is then used against them. The new information could include changed circumstances that result from the delays introduced by the review process.

For instance, in a situation where an applicant requests an internal review of a decision to refuse funds for furniture, but borrows money in the time that it takes for the review to be processed, to buy the said essential furniture, this new information could be used by the reviewer to uphold the initial denial. The reviewer could justify the decision by saying that the need has been met, even if the basis for the initial denial is found to be incorrect. In this way, the practice compromises both the applicants' ability to seek a fair review and the integrity of the review process.

A further and final recourse available to applicants who face denial from the internal review process is to appeal the decision to the Decisions Review Committee (DRC). However, no information about the DRC—how it operates, and who it is comprised of—is publicly available. Furthermore, members of the DRC replicate the problems in the internal review process by seeking new information and documentation and not restricting their judgment to the facts of the case in front of them.

Getting money for food you need means you might not get money for furniture you need.



Section Summary

This section described in detail the two critical issues plaguing Toronto's Housing Stabilization Fund:

The first issue is that the current HSF policies are discriminatory by design, particularly so towards disabled people, and people with children or adult dependents. The discrimination results from TESS' treatment of HSF applicants' income and assets, the calculation it uses for determining eligibility, and the arbitrary limits it imposes on furniture eligibility. The result is a violation of the rights of social assistance recipients to be free of discrimination under the *Ontario Human Rights Code*.

The second issue is that the TESS administration violates HSF applicants' rights to procedural fairness and natural justice. The problem arises from TESS' refusal to release the HSF adjudication policies publicly, its practice of issuing vague decision letters that do not adequately document the rationale for the decisions made, and its opaque and compromised internal review process.

In order for these problems to be addressed, the necessary first step is an acknowledgment of their existence, both by City Council, and by the heads of Toronto Employment and Social Services. The next section outlines what can come after.

Moving Forward: Eradicating Discrimination & Ensuring Justice

The structural flaw underlying the HSF is that it is a fund expected to meet the needs fulfilled by the former CSUMB, but with fewer administrative resources and only 67% the funding.¹ This is simply impossible given the scale of income insecurity faced by social assistance recipients, which is only getting worse amidst the rising costs of food and shelter in Toronto. While the City Council, and by extension, Toronto Employment and Social Services, cannot be excused for creating and implementing an unjust and discriminatory HSF policies, the culprit responsible for creating this situation is the provincial government, and its decision to slash the CSUMB.

The motive cited by the Liberal government for cutting the CSUMB was to save the province \$165 million over three years.² This was deemed necessary to help the province deal with its \$15 billion deficit. However, during the same period, the Liberals promised corporate tax cuts to the tune of \$2.4 billion.³ This made Ontario "home to one of the lowest corporate income tax rates" in the world.⁴ The discord between the numbers reveals not only the Liberal government's double-speak, but also its willingness to implement austerity measures that download the burden of the economic crisis onto the poorest

sections of the population. Unfortunately, by acquiescing to these measures, and implementing restrictive and discriminatory HSF policies, the City has demonstrated its willingness to do the same.*

An understanding of this context is crucial as steps for



*Bedbugs can be expensive. **But** the HSF only pays for beds - not necessarily their whole cost.*

1. Toronto Staff Report, *Changes to Provincial Funding Approaches*, p. 5
2. Income Security Advocacy Centre, *ISAC's initial analysis*.
3. Cartwright "Cancel Corporate Tax Cuts."
4. Tiessen, *Fixing Ontario's Revenue Problem*.



Having kids shouldn't count against people.

moving forward towards eradicating the discrimination and injustice built into the HSF are considered. In June of this year, following OCAP's public fight around Laura Bardeau's case, the Community Development and Recreation Committee (CDRC) of City Council passed a motion asking TESS to "review key aspects" of the HSF policy and report back to the committee in the last quarter of 2016.¹ However, in order for this report to be meaningful, TESS must in fact acknowledge and address the issues raised in this report. It must make changes to its administrative processes that uphold the principles of procedural fairness and eliminate discrimination built into its adjudication policies.

In light of the findings of this report, we make the below demands. These demands represent the most basic measures TESS and City Council can undertake to ensure

the policies they implement remain consistent with the law and allow poor people to keep a roof over their heads. Much larger battles need to be fought, including by those in City Council, to resist the model of austerity economics that resulted in the creation of the HSF, and which is further entrenching poverty.

1. Toronto, *CDRC Decisions*, item CD13.18.

Demands

The Toronto Employment and Social Services:

The Toronto City Council:

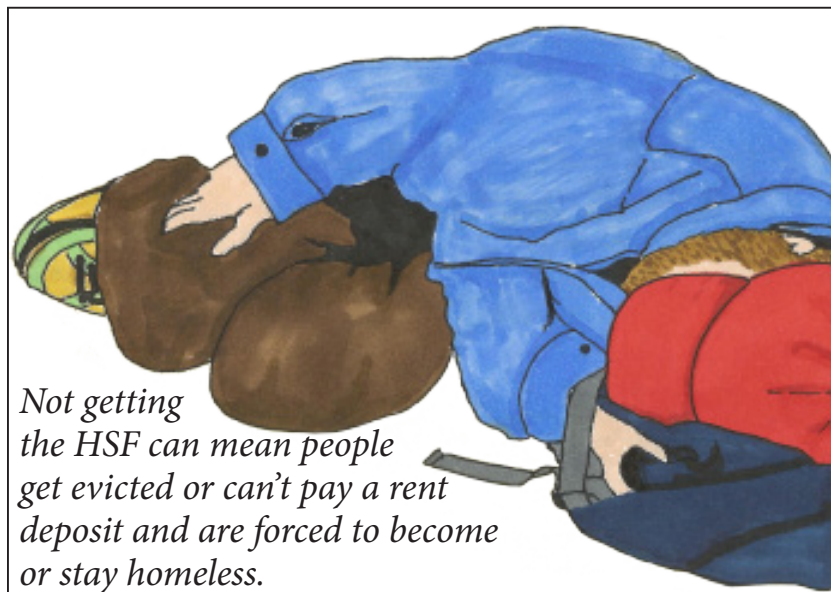
1. Publicly acknowledge that there are significant problems with the administration of the HSF, and immediately dedicate resources to address the issues identified in this report.
2. Provide a summary of planned changes to be implemented in the report it submits to the Community Development and Recreation Committee this quarter.
3. Advise all of its offices to immediately cease implementing aspects of its current HSF policies that are discriminatory, including but not limited to ceasing calculating the Special Diet Benefit, Canada Child Benefit and Guide Dog Benefit as income.
4. Advise all of its offices to immediately cease calculating the Employment Related Expense benefits as income with respect to HSF eligibility.

1. Allocate an addition \$13 million to its current HSF budget to reinstate funding lost to the CSUMB cut.
2. Pressure the province to reinstate the Community Startup and Maintenance Benefit and take a position against any further downloading of austerity measures on the backs of the City's poorest residents.

The Province of Ontario:

1. Reinstatement of the Community Startup and Maintenance Benefit in the 2017 budget.
2. Raise social assistance rates to at least meet the poverty line and index them to inflation going forward.

If these demands aren't met, City and Provincial officials can be assured that we will escalate the struggle to challenge an administration that has effectively institutionalized injustice. Poor people's lives are impacted by these policies, and their lives are too important to be compromised by bureaucratic incompetence, negligence or an unwillingness to act.



Not getting the HSF can mean people get evicted or can't pay a rent deposit and are forced to become or stay homeless.

References

- Baker v. Canada (Minister of Citizenship and Immigration). [1999] 2 SCR 817. <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1717/index.do>
- Cartwright, John, "Cancel Corporate Tax Cuts to Deal with Deficit," Toronto Star, June 11, 2010, https://www.thestar.com/opinion/editorialopinion/2010/07/11/opinion_cancel_corporate_tax_cuts_to_deal_with_deficit.html
- Commisso, Christina, "Rent prices among casualties of hot housing markets," CTV News, April 29, 2016, <http://www.ctvnews.ca/business/rent-prices-among-the-casualties-of-hot-housing-markets-1.2878932>
- Income Security Advocacy Centre, Ontario Budget 2012: Analysis after the negotiations, 2012, http://incomesecurity.org/publications/ontario_budget_2012_-_isac_response_and_analysis_-_after_the_negotiations_-_2012-doc/
- Income Security Advocacy Centre, ISAC's initial analysis of what Ontario's 2012 budget means for poor people on social assistance, March 27, 2012, <http://us4.campaign-archive1.com/?u=095b12c98935ecaadd327bf90&id=2c97d3695a&e=f67f28a7b9>
- Ministry of Community and Social Services, *OW Directive 7.4: Employment and Participation Benefits*, <http://www.mcscs.gov.on.ca/documents/en/mcss/social/directives/ow/0704.pdf>
- Ministry of Community and Social Services, *OW Directive 2.5: Participation Requirements*, <http://www.mcscs.gov.on.ca/documents/en/mcss/social/directives/ow/0205.pdf>
- Ministry of Community and Social Services, *OW Directive 4.2: Asset Limits*, <http://www.mcscs.gov.on.ca/documents/en/mcss/social/directives/ow/0402.pdf>
- Ministry of Community and Social Services, *ODSP Directive 4.1: Definition and Treatment of Assets*, http://www.mcscs.gov.on.ca/documents/en/mcss/social/directives/odsp/income_Support/4_1.pdf
- Pasternak, James, City Councillor's Letter to the Community Development and Recreation Committee, "Reviewing key aspects of the Housing Stabilization Fund," June 22, 2016, <http://www.toronto.ca/legdocs/mmis/2016/cd/bgrd/backgroundfile-94629.pdf>
- Statistics Canada, Consumer Price Index, by province, <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/econ09g-eng.htm>
- Statistics Canada, Consumer Price Index, by province (monthly), <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/cpis01g-eng.htm>
- Tiessen, Kaylie, Fixing Ontario's Revenue Problem, Centre for Policy Alternatives, March 2015, <https://www.policyalternatives.ca/sites/default/files/uploads/publications/Ontario%20Office/2015/03/CCPA%20ON%20Fixing%20Ontarios%20Revenue%20Problem.pdf>
- Toronto, Community Development and Recreation Committee Decisions, item CD13.18, June 23, 2016, <http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getDecisionDocumentReport&meetingId=10951>
- Toronto, Housing Stabilization Fund, <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=b577d08099380410VgnVCM10000071d60f89RCRD>
- Toronto, Staff Report, Changes to Provincial Funding Approaches for Homeless Prevention and Social Assistance Programs: Implementation Strategies and Issues, September 24, 2012, <http://www.toronto.ca/legdocs/mmis/2012/ex/bgrd/backgroundfile-50494.pdf>
- Toronto Employment & Social Services Staff Report, Implementing the Housing Stabilization Fund: Update on Progress to Date, April 5, 2013, <http://www.toronto.ca/legdocs/mmis/2013/cd/bgrd/backgroundfile-57328.pdf>
- Toronto Employment & Social Services Staff Report, 2013 Year-End Report on Housing Stabilization Fund, April 2, 2014, <http://www.toronto.ca/legdocs/mmis/2014/cd/bgrd/backgroundfile-68220.pdf>
- Toronto Employment & Social Services Staff Report, 2014 Update on the Delivery of the Housing Stabilization Fund, March 9, 2015, <http://www.toronto.ca/legdocs/mmis/2015/cd/bgrd/backgroundfile-77766.pdf>
- Wellesley Institute, The Real Cost of Cutting the Community Start-Up and Maintenance Benefit: A Health Equity Impact Assessment, November 2012, <http://www.wellesleyinstitute.com/publications/the-real-cost-of-cutting-csubm/>

Appendix A: HSF Policy

Effective Date: January 2013
Last Updated: December 2015

Housing Stabilization Fund (HSF)

- [Background](#)
- [Target Group](#)
- [Eligibility Criteria](#)
- [Maximum Entitlement and Types of Items Included](#)
- [Assets](#)
- [Income](#)
- [Referral Process:](#)
 - [Local Office \(OW\)](#)
 - [Local Office \(ODSP\)](#)
- [Acceptable Documentation](#)
- [Payment](#)
- [Monitoring](#)
- [Review Process](#)

Background

Consolidating housing homelessness programs is an integral part of Ontario's Long-Term Affordable Housing Strategy. As of January 1, 2013, the Community Homelessness Prevention Initiative (CHPI) combined provincial funding from five existing homelessness programs into a single funding envelope administered by the Ministry of Municipal Affairs and Housing and delivered by Service Managers. CHPI focuses on the following two outcomes:

1. People experiencing homelessness obtain and retain housing; and
2. People at risk of homelessness remain housed.

Using the CHPI funding and consistent with the objectives of that program, the Housing Stabilization Fund (HSF) was developed and administered by Toronto Employment and Social Services. The HSF takes effect on January 1, 2013, and is intended to **prevent homelessness** by meeting the **emergency housing needs** of Toronto residents who receive Ontario Works and the Ontario Disability Support program.

Target Group

Residents of the City of Toronto who are in receipt of Ontario Works (OW) and Ontario Disability Support Program (ODSP) can apply for the fund. For OW, this includes individuals receiving Temporary Care Assistance, Extended Health Benefits and Extended Employment Health Benefits. For ODSP, this includes individuals receiving Extended Health Benefits and Transitional Health Benefits. This program is not available to residents of Toronto who are not in receipt of social assistance.

Eligibility Criteria

As provincial funding for HSF is received on an annual basis, it will also be assessed and issued in the same manner. Moving forward, all clients who received HSF funds at any time in the previous calendar year (January - December) can be assessed for full funds (up to the maximum amount) as of January 1st in the current year.

Applicant is currently in receipt of social assistance (OW/ODSP) and is a resident of the City of Toronto.

Preventing Homelessness

Clients may be eligible for the HSF if they are:

- Homeless and leaving an emergency shelter or the street
- Housed and relocating because of domestic violence or fire/flood
- Housed and relocating due to a high rent situation

In these situations, HSF may be issued to help with:

- Rental costs
- Moving costs
- Furniture/Household items (HSF is not issued to replace old, worn or broken furniture)

Emergency Housing Needs

HSF may be issued if the client is **housed and in energy arrears** (gas, hydro, or fuel) with risk of disconnection, or **rental arrears** with risk of eviction.

Other emergency housing needs may include:

- Funds to purchase a bed(s) that has been discarded due to a Bed Bug infestation (verification of one treatment [if heat treated] or two treatments [if spray treated] by a pest control company is required).
- Funds to purchase furniture when a client is moving from a furnished unit to an unfurnished unit,
- Funds to purchase a bed for a child that has outgrown a crib

If the applicant meets the above criteria, a financial assessment can take place utilizing the automated HSF Budgetary Tool.

Tool Circumvention for EEHB/EHB/THC (Financial Assessment)

- For those clients receiving EEHB/EHB (OW) or EHB/THC (ODSP), record \$0.01 for the Basic Needs Rate on the HSF Budgetary Tool as although they are not in receipt of financial benefits this is a mandatory field.
- As the OW/ODSP income field is mandatory on the HSF Budgetary Tool, enter the rate of \$0.01.

- Also, when inputting **net** income into the Budgetary Tool, do not include the provincially mandated \$200.00 flat exemption or 50% partial exemption in the calculation.

Where a client is requesting funds for an item that has already been paid for - e.g. Client is requesting funds for Last Month's Rent but has secured the accommodation with money borrowed from friends/family etc. - there will be no eligibility for HSF as the "need" has been met. **HSF cannot be issued retroactively** to reimburse for items already paid for prior to the request.

Maximum Entitlement and Types of Items Included

The maximum HSF entitlements based on family composition are:

- Singles/Couples - \$1,600,
- Families with adult dependents - \$2,000,
- Families with children - \$3,000,
- Temporary Care - \$800.00 per child (in temp care).

The chart below outlines the types of items that are considered in the assessment.

Item	Item Criteria Guidelines
Rent (within the GTA) Rental Arrears Moving Expenses (within the GTA) Energy Arrears (Hydro, Gas or Oil)	Subject to the following guidelines: <ul style="list-style-type: none"> • Singles/Couples - up to \$800 • Families with adult dependents - up to \$1,000 • Families with children - up to \$1,500 <i>NOTE: Monthly rent/mortgage cannot exceed 85% of monthly income.</i>
Essential Furniture	Subject to the following guidelines: <ul style="list-style-type: none"> • Singles/Couples - up to \$800 • Families with adult dependents - up to 1,000 • Families with children - up to \$1,500 • Temporary Care - Up to \$800.00 per child (in temp care) <i>NOTE 1: Replacement requests for worn furniture are not considered an "essential furniture" request.</i> <i>NOTE 2: Guidelines are provided - item amounts may overlap but not to exceed maximum.</i>

Assets

Only easily accessible assets are considered when assessing eligibility for HSF. Accessible assets have been specifically defined as being cash on hand, bank accounts, available Guaranteed Investment Certificates (GICs), available Registered Retirement Savings Plans (RRSPs) and safety deposit funds.

NOTE: Any locked in RRSP that originated from an employer's pension fund are not considered to be an "available" RRSP.

All other assets are not considered in the HSF assessment process.

A maximum asset level of \$2500 has been established regardless of family size. Asset levels that exceed this amount are taken into account during the HSF calculation.

Income

Actual monthly income* is used when determining eligibility. Some examples include:

- Earned income less mandatory payroll deductions plus any other deductions such as garnishees;
- Employment Insurance less income tax;
- Rental/roomer/boarder income; and
- Canada Child Tax Benefit (**both** Child tax Benefit and National Child Benefit Supplement), Ontario Child Benefit and Universal Child Care Benefit. **NOTE: Child Disability Benefit (CDB) is not included.**

*Do not use provincially mandated flat \$200.00 exemption and 50% partial exemption in income calculations.

The only income exceptions are:

- Assistance for Children with Severe Disabilities (ACSD);
- Child Disability Benefit (CDB);
- Diabetic Supplies;
- Incontinence Supplies;
- MSN Transportation;
- Earnings of a dependent child(ren); and
- Earnings of a dependent adult(s).

Referral Process:

Applicants should contact their active OW/ODSP caseworker for an HSF assessment and referral.

Acceptable Documentation

- Rent/Lease letter from landlord/owner verifying request.
- Rental Arrears- notice of rental arrears or eviction notice.

- Essential Furniture- verbal declaration including reason for the request.
- Energy Arrears- Energy bill or disconnection notice (must be in the client's name).
- Moving Expenses (within the GTA) - Quote from Moving/Storage Company

Payment

The payment process is completed by the HSF staff at the local OW offices for all requests. The payment method (applicant/pay direct) should take into account the circumstances of the client and support housing security. All issuances for First/Last Month's Rent or Rental Arrears must be payable to the Landlord/Property Owner.

NOTE: If the HSF entitlement is determined to be less than \$2.50, the minimum cheque amount shall be \$2.50.

All payments are issued by using the benefit category **Non-Shareable**. **Only the following SAMS benefit types are to be utilized.**

Requested Item	SAMS Benefit Type
Rent	Last Month's Rent Deposit
Rental Arrears	Rental Arrears
Essential Furniture	Furniture/Household Goods/Rprs (<i>repairs</i>)
Hydro Arrears	Hydro Arrears
Gas and Oil Arrears	Fuel Arrears
Moving & Storage Expenses	Moving & Storage Expenses

NOTE: The HSF is issued using Non-Shareable funds therefore an overpayment cannot be established to recover funds issued in error.

Monitoring

Central monitoring takes place to track all HSF expenditures. Reports are available from the HSF Tool for case management purposes.

Review Process

As of September 14th 2015 all requests for review of HSF decisions are managed by the Appeals Review Unit (ARU).

Housing Stabilization Fund Appeal Process

When an OW/ODSP client has been found ineligible for the Housing Stabilization Fund, or disagrees with the amount of their eligibility, an Appeal can be requested within 30 calendar days from the date the Ineligible letter was received.

Requests for Appeals should be submitted in writing however verbal requests may be accepted. The request is submitted to the HSF Caseworker at the local area office.

Appeal Request Responsibilities:

Local Office - HSF Caseworker

- When a request for an Appeal is received, the HSF caseworker will click the "Review" tick box in the HSF Calculator Tool
- The HSF caseworker will document in the HSF Calculator Tool notes and SAMS that the client has submitted a request for an Appeal and that the request has been forwarded to the Appeals Review Unit (ARU)
- The designated Support Assistant will scan the request and forward it to the ARU via email.
- When the Appeal has been resolved and a copy of the Outcome of Internal Review letter is received at the area office from the ARU, the HSF caseworker will enter the "Review Resolved Date" and "Review Outcome" in the HSF Calculator Tool.
- If the original decision is overturned and/or the amount to be issued has changed (varied), the HSF caseworker will forward the case to the SDP to complete an override on the HSF Calculator Tool. The SDP will then change the status to "Eligible" and enter the full amount to be issued to client.
- The SDP will complete notes in the Tool notes and SAMS regarding the override and the amount issued.

Appeals Review Worker

- The Appeals Review worker will review and document in SAMS all pertinent details regarding the decision rendered.
- Once the outcome of the Appeal has been made the Appeals Review worker will notify the client by phone and mail an Outcome of Internal Review letter detailing the decision. A copy will be forwarded to area office HSF caseworker, Supervisor and Manager.

For further information please follow this link to the [Decision Review Model](#) business process and details.

Appendix B: HSF Furniture Issuance Guidelines

Housing Stabilization Fund Furniture Issuance Guidelines

Bed Requests

Target Group: Clients requesting HSF for essential furniture to establish a residence (moving from a shelter or the street, NFA leaving an institution) or to replace beds due to bed bugs, fire, or flood.

Amounts/Bed Size*: Amounts include, cost of frame, tax and delivery

Twin	\$300.00
Double/Queen	\$500.00

* Dollar amounts were arrived at through researching prices at various furniture retailers across the GTA .

Essential Furniture Issuances

Target Group: Clients leaving a shelter, the street or NFA leaving an Institution (Hospital, Jail);
Infant who has outgrown a crib
Clients moving from furnished to unfurnished accommodation; and
Clients who have lost their possessions or are being relocated due to a fire or flood.

Example of items required to establish a residence:

- Bed(s)
- Linens/towels
- Sofa
- Table & Chairs
- Kitchen Items

Appendix C: HSF Eligibility Assessment

Housing Stabilization Fund eligibility assessment

Note: For all family sizes, the allowable asset limit is \$2500.00

Client Monthly Income *	
Less	
Client Monthly Needs**	(for all applicants this amount is the ODSP Basic Needs for the family size + Actual Shelter Amount + 20%of this total amount)
= Excess income amount	
To calculate eligibility for HSF	
Requested amount of the item(s)	
Less	
Excess income amount	
= Eligible amount of HSF	

*Monthly income

- Net earnings
- Support payments
- WSIB
- Employment Insurance
- Ontario Works
- Ontario Disability Support Program
- Rental income
- Child Tax Benefits
- Ontario Student Assistance Program
- Other chargeable incomes

**Monthly Needs

- ODSP Basic Needs Rate
- Total shelter costs paid by applicant (actual shelter amount)
- Actual Child Care Costs



#HSFjustice

Ontario Coalition Against Poverty

157 Carlton St #201
Toronto, ON
M5A 2K3

www.ocap.ca

ocap@tao.ca

416-925-6939

 @OCAPToronto

 [facebook.com/
OcapToronto/](https://facebook.com/OcapToronto/)



South Asian Legal Clinic of Ontario

45 Sheppard Ave. E. Suite 106A
Toronto ON M2N 5W9
416-487-6371

www.salc.on.ca

 @SALCOntario

 facebook.com/SALCOntario/

