



Hi Howard,

My friends and colleagues at [Hull and Hull](#), Canada's premier estate, trust and capacity litigation specialists, posted the following blog recently. I am setting it out below as some of my clients have had to make Estate Plans for disabled loved ones. These Recent changes to the [Ontario Disability Support Program](#) (ODSP) mean that recipients who have a disability and are able to work are now able to earn more before their benefits are reduced. Starting February 1, 2023, recipients of ODSP who have a disability can earn \$1,000 a month before their ODSP payments go down (the income cap). The income cap used to be \$200 a month.

Now, if an eligible recipient earns more than \$1,000, their ODSP is reduced by 75% of the amount they earn over \$1,000. The amount that ODSP reduces benefits by is called a claw back. For example, if a recipient earns \$1,500 in a month, their ODSP payment is reduced by 75% of \$500. This means that they will receive \$375 less in their ODSP payment. This is a fairly big difference in benefits and claw back; ODSP payments used to be reduced by 50% of anything over the old income cap of \$200.

As has been discussed previously on the blog, planning for a family member with special needs requires consideration of whether he or she is expected to rely on income-tested government support (including ODSP). To qualify for ODSP, a person must demonstrate financial need in

respect of both income and assets, using relatively low thresholds, although certain income and assets are exempt for the purposes of qualifying for ODSP. Non-exempt asset thresholds are currently \$40,000 for an individual, \$50,000 for a couple, and \$500 for each dependant other than a spouse. Further exemptions and clarifications for existing exemptions also allow for more flexibility for ODSP recipients. Qualifying individuals may be entitled to income support (for a single person with no spouse or dependants, up to \$1,228 per month) and medical benefits, such as drug coverage, dental coverage, and certain medical supplies, as well as other special needs benefits.

What testators need to bear in mind is how they plan gifts for a disabled adult family member in a way that best preserves that individual's eligibility for ODSP and other government benefits. This is often where the Henson Trust comes into play (find a quick refresher [here](#)) and/or a registered disability savings plan (RDSP). While there are tools and mechanisms available to achieve your wishes and the well-being of your loved ones, don't assume that the current state of government support programs will always align with previous planning.

Those planning for a disabled individual should check with their estate planner periodically to ensure that their plans do not run afoul with any changes to government benefits programs and eligibility, including the new changes to the income cap this year.

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I invite you to [set up a Zoom](#) appointment with me to discuss your Estate Planning and drawing your Will and Powers of Attorney.

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