



REGARDING: OSAP applications requiring documentation of foster parent per diems as an income source

Greetings from the Foster Parents Society of Ontario (FPSO)

We are reaching out to you today regarding a challenge foster families are having with the current OSAP applications.

We do not feel it is appropriate for foster home per diems; which are a social assistance payment to be required to be documented as an income source on an OSAP application. We see by the list of required taxable and non-taxable incomes that there are no other forms of social assistance required to be documented (ODSP, Ontario Works, Passport funding for example).

We further feel it is not appropriate to require the documenting of foster home per diems for an OSAP application as the funds provided as per diem are a reimbursement for the costs incurred while caring for a foster child. The funds are for the care of the child not for the financial support of a post-secondary education for another person.

The sections of the OSAP application we would like to see changed are:

The section pertaining to the foster parent who themselves is applying for OSAP loan or grant as they are the student.

623 Do you expect to earn or receive any other income totalling more than \$5,600 per term during your study period? No Yes.

If "Yes", estimate the amount of income you will earn or receive during your entire 2020-21 study period: See "Term of study" in the Definitions section:

Definitions; Section F: Income and assets (continued) Your OSAP assessment will take into account any amount of income you earn or receive earnings over \$5,600 per term when calculating the amount of OSAP funding you are eligible to receive. If you expect to earn or receive any other income totalling more than \$5,600 per term during your study period (e.g. Teaching or Research Assistantships, child support and/or spousal support, foster parent payments, rental income, investment income including interest and dividends) you must report the full amount here.

The section effecting young people whose parents foster

To fill out line 850, definitions must be reviewed, noted within the definitions: All foreign income and Canadian non-taxable income Parent # 1 received in 2019: See “Foreign income and Canadian non-taxable income” in the Definitions section.

Under definitions: Foreign income and Canadian non-taxable income includes: • income earned in a country other than Canada that has not been reported to the Canada Revenue Agency (CRA) through line 104 (e.g. employment income, rental income or interests, dividends and capital gains from investments) • child support received • foster parent payments • income earned on a First Nations community in Canada • lottery winnings totalling over \$3,600 • gifts and inheritances totalling over \$3,600 • life insurance compensation • strike pay you received from your union • interest, dividends or capital gains from tax-free savings accounts (TFSA) regardless of the original source of the income Despite being exempt from tax, these earnings are still considered income for the purposes of determining eligibility for grants and loans through OSAP and must be included in the application. You may be asked to verify these amounts. Do not include: - Canada Child Benefits - Ontario Child Benefits - GST/HST Rebates - Ontario Trillium Benefit - Assistance for Children with Severe Disabilities

FPSO believes the above sections of the OSAP application to be out of alignment with the federal taxation act Section 81 (h.1) (i), which reads:

Social assistance for informal care programs

(h.1) if the taxpayer is an individual (other than a trust), a social assistance payment ordinarily made on the basis of a means, needs or income test provided for under a program of the Government of Canada or the government of a province, to the extent that it is received directly or indirectly by the taxpayer for the benefit of a particular individual, if

- **(i)** payments to recipients under the program are made for the care and upbringing, on a temporary basis, of another individual in need of protection,

The Child and Family Services Act specifies that a foster parent is a person who, receives compensation for caring for the child

“foster care” means the provision of residential care to a child, by and in the home of a person who,

(a) receives compensation for caring for the child, except under the *Ontario Works Act, 1997* or the *Ontario Disability Support Program Act, 1997*, and and “Foster home” and “Foster parent” have corresponding meanings

(Child and family Services Act)

A foster child is the individual in need of protection, the foster parent is providing care on a temporary basis, the per diem is for the care and upbringing of the foster child.

FPSO understands that the per diem is not income; it is a social assistance and therefore should not be required by OSAP to be included under non-taxable income sources.

FPSO recommends removing the requirement for foster home per diems to be listed as payment or income on an OSAP application.

FPSO further understands in different section of the OSAP application form; foster parents are directed to list foster children as dependants. There is a suggestion that the listing of foster children as dependants may financially offset the recording of the per diems under income. However as the CAS is the corporate parent of the foster child, and the biological parents are the legal parents of the child (aside from crown wards for who the CAS becomes the legal parent); it would seem to be a conflict for a foster parent to declare foster children as dependants on an OSAP application. [What if a foster parent declares a foster child as a dependant on an OSAP form; and in that same year a biological parent also lists the same child as a dependant on a form they are filling out for one of their other children to receive OSAP?].

FPSO also finds it to be conflicting to declare a child as a dependant on a government OSAP form but not as a dependant on personal income tax forms.

FPSO recommends removing the requirement of foster children to declare foster children as dependants on the OSAP application forms

Another area of concern regarding the declaring the foster home per diems as income are how it may negatively impact eligibility for student loans and grants.

FPSO finds it to be a conflict for OSAP to have interest in foster home per diems as a factor used to determine eligibility for receiving student loans or grants; yet corporate banking institutions will not consider foster home per diems as indication of an income to secure a loan or mortgage. [Foster home per diems are not guaranteed, and change every time a foster child comes or goes, so cannot be depended upon as stable cash flow]

FPSO finds it to be an unfair challenge for a legal child of a foster family to have their eligibility for post-secondary loan and grants potentially compromised due to the requirement of documenting per diems as though they were income. In a Child Welfare culture of complete recognition and support of the value of post-secondary education for foster children; it would be reasonable for the Child Welfare to also acknowledge the value of post-secondary education for the legal children of the foster family. The legal children of foster families have shared their homes, lives, parents and even bedrooms with foster children. It would seem very unfair for the system that is focused on optimal outcomes for the children in care to allow any possible compromises to the optimal outcomes for the foster siblings of the in care population. The system that has significant awareness of the value of post-secondary education for foster children; must also be aware of the value of post-secondary education for the legal children of foster families.

The above are the direct areas where FPSO is challenged by the requirement of documenting foster parent per diems in the OSAP application forms.

There are however other considerations:

FPSO has been made aware of a number of situations where foster families have been challenged in court regarding per diems.

As an example;

In one case the foster parent couple together ran a parent model group home, when wife and husband were divorcing; wife remaining in the home continuing to foster, husband left. In court husband's lawyers sought to have foster mom pay spousal support to husband from the per diems she was receiving due to the foster children she continued to parent. The husband was not successful as the per diem was clarified to be a reimbursement for the temporary care of the foster children, and it was not income – it was not means.

The FPSO has been made aware of scenarios like this on a number of occasions over the past few years. The court as far as we are aware has consistently ruled against the per diems being considered means or income. To our knowledge it has consistently been understood that the per diem is for the care of the children, it is not income.

FPSO is concerned about the OSAP application identifying the per diem as an income or payment, as this could be used against a foster parent in a situation like the example above. It would be very problematic if a lawyer went to court armed with information that OSAP deems the per diems as income or payment, and actually requires a foster parent to pay spousal support or child support out of the per diem. This would be totally unreasonable for the per diem designated to provide for the care of a foster child in the foster home to be designated by the courts to be paid out in spousal support, child support or any other fines or payments.

If this ever happened it would be the foster child who the funds are designated to support that would end up not supported. In all likelihood this would negatively impact the placement and potentially the foster parents working relationship with the agency.

If OSAP deems a legal child of a foster family is not entitled to receive loans or grants due to their parents having too high an income based on the receiving of foster home per diems. Then that foster parent has to financially support their legal child's post-secondary education through utilizing monies from the per diems to pay for the post-secondary education of the legal child. This would not be utilizing the per diem funding within the expectations it has been provided for. We would expect this to be problematic.

We also feel it would be unacceptable if the legal child of the foster family was denied OSAP loans and grants based on having to declare per diems as income and could then not afford to attend a post-secondary education facility.

FPSO is recommending OSAP change their application forms and remove the requirement of foster parent per diems to be documented under income sources. Per Diems are a reimbursement and provision for the care of a foster child. We also recommend the requirement to declare foster children as dependants be removed.

With Respect, On behalf of FPSO

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