

April 7, 2022

## **ONPHA's analysis of regulatory amendments under the *Housing Services Act, 2011*: Service levels, access, and income and asset limits**

As part of its [Community Housing Renewal Strategy](#) (released in 2019), Ontario introduced Bill 184, the *Protecting Tenants and Strengthening Community Housing Act, 2020*, which received royal assent in July 2020. Among other things, Bill 184 amended the *Housing Services Act, 2011* (HSA), which provides the legislative framework for community housing in Ontario. As enabling legislation, Bill 184 provided regulation-making authority to transform Ontario's community housing framework, with the goals of protecting and growing community housing supply, stabilizing the sector, and ensuring its long-term sustainability as housing providers reach the end of their mortgages and/or operating agreements.

Bill 184 proposed amendments to [O. Reg. 367/11](#) under the HSA in four distinct areas:

1. Service and exit agreements;
- 2. Service level requirements;**
- 3. Access; and**
- 4. Local eligibility rules for income and asset limits for rent-gear-to-income (RGI) assistance.**

The Province held initial consultations from February – April 2021 for regulatory development related to local eligibility rules for household income and asset limits for RGI assistance. Further consultation took place from December 2021 – February 2022 related to service and exit agreements, service level requirements, and access.

On March 30, 2022, Ontario released two new regulations under the HSA outlining changes in the above four areas (with accompanying Social Housing Notifications), forming the new community housing framework. This framework represents the culmination of a significant amount of collective work across the sector, which took place over several years:

- [O. Reg. 241/22](#): Service and exit agreements (see accompanying [Social Housing Notification](#))
- [O. Reg. 242/22](#): Service levels, access, and income and asset limits (see accompanying Social Housing Notifications for [service levels](#), [access](#), and [income and asset limits](#))

ONPHA made submissions to both the [first](#) and [second](#) rounds of consultations, reflecting feedback from members and sector partners gathered through member surveys, time-limited working groups with subject matter experts, direct communications with members and sector partners, and the findings from ONPHA's Solutions Lab on [Community housing for the future: Taking collective action toward resiliency](#). ONPHA also maintains regular communication with the Ministry of Municipal Affairs and Housing (MMAH) to share ongoing feedback.



Overall, ONPHA is pleased with the new framework, which incorporates many of our recommendations and sets the stage to ensure the long-term sustainability of the community housing sector. With respect to service levels, access, and income and asset limits, the new system will likely help more households access varying levels of housing assistance, while prioritizing access for those in greatest need.

Importantly, MMAH has recognized the need for ongoing sector engagement to support the implementation of the new regulatory framework. In addition to supporting MMAH in developing these supports, ONPHA will also be offering new services to support the sector during this significant transition period.

ONPHA is also looking forward to ongoing engagement with all community housing sector partners and stakeholders, including at the federal, provincial, and municipal levels, to ensure the long-term growth and sustainability of Ontario's community housing system.

### Service level requirements

Section 40 of the HSA requires service managers to provide housing assistance to a certain number of households with incomes at or below local Household Income Limits (HILs) and a certain number of high need households (set out in [O. Reg. 370/11](#)).

Under the current regulatory framework, only households receiving RGI assistance or service manager-funded portable housing benefits (PHB) are recognized under the service level rules. Under the new framework, additional types of service manager-funded housing assistance can count toward service levels, including:

- Households (other than those receiving social assistance) paying no more than 30% of their income on rent (see [Schedule 4.2 of O. Reg. 367/11](#)); or
- Households receiving a benefit that follows existing PHB calculation rules and serves/prioritizes any client group (see [Schedule 4.3 of O. Reg. 367/11](#)).

Any form of housing assistance that meets either of the two requirements listed above can count toward service levels under the new framework without needing to follow RGI eligibility, priority, and selection rules. However, such rules will continue to apply to households receiving RGI assistance under existing programs and forthcoming agreements.

In addition, households in Urban Native Housing and households receiving social assistance that do not may pay more than their social assistance shelter allowance toward rent may also count toward service levels under the new framework. Households receiving assistance funded by a level of government other than the service manager (e.g., the Canada-Ontario Housing Benefit) cannot be included in service levels.

To count toward service levels, all households must have incomes at or below local HILs.



[Rules](#) to remove households from a waiting list will remain the same: if a household accepts a PHB offer that follows RGI waiting list, priority, and selection rules (see Schedule 4.1), they must be removed from the list. However, households that accept other forms of assistance as outlined in Schedules 4.2 and 4.3, including PHBs that do not follow RGI waiting list rules, cannot be removed from the list.

In summary, in addition to RGI assistance, the following forms of assistance can count toward service levels once the new framework comes into effect on **July 1, 2022**:

O. Reg. 367/11 Schedule	Forms of Assistance	Waiting List Removal
<b>Schedule 4.1</b> (introduced in 2017)	PHBs that follow specific calculation and review rules, including RGI waiting list eligibility, priority, and selection rules.	Households that accept this form of assistance may be removed from the waiting list.
<b>Schedule 4.2</b> (introduced in 2022)	Any form of housing assistance where households pay no more than 30% of their adjusted family net income on rent.  Households in receipt of social assistance must not pay more than their social assistance shelter amount.	Households that accept forms of assistance under Schedule 4.2 may <u>not</u> be removed from the waiting list.
<b>Schedule 4.3</b> (introduced in 2022)	PHBs that follow the same calculation and review rules for the amount of the benefit outlined in Schedule 4.1.  No requirement to follow RGI waiting list eligibility, priority, and selection rules.	Households that accept this form of assistance may <u>not</u> be removed from the waiting list.

### [Access](#)

Under the new regulatory framework, service managers must maintain an access system that includes all available forms of service manager-funded and/or -administered housing assistance that reduces or supports rent payments in their service area. This includes RGI assistance, rent supplements, PHBs, housing allowances, flat rate benefits, and short-term/emergency financial assistance (and could also include other forms of available assistance, such as affordable housing). The assistance must be either:

- Funded and administered by the service manager (e.g., RGI assistance, PHBs, etc.);
- Funded by another level of government and administered by the service manager (e.g., Canada-Ontario Housing Benefit); or



- Funded by the service manager and administered by another entity (e.g., RGI assistance for Urban Native Housing units).

Under the new framework, service managers must publicize information about their access systems, including:

- A description of each form of available assistance (e.g., RGI assistance, PHBs, etc.);
- How to apply for each form of available assistance (e.g., fill out RGI assistance application, apply directly with Indigenous housing providers, etc.); and
- Eligibility and priority rules for each form of available service manager-administered assistance.

Service managers must also notify households who are offered assistance through the access system of:

- The initial amount of the assistance and the method used to calculate it; or
- If the assistance is provided in the form of reduced rent (e.g., RGI assistance), the method used to calculate the rent.

Plus:

- The criteria for assessing continued eligibility for the assistance; and
- Any effect that receiving the assistance will have on assistance that a household member may be receiving under Ontario Works or the Ontario Disability Support Program.

The new regulatory framework for the access system will come into effect on **January 1, 2023**.

### Income and asset limits

Currently, service managers have the discretion to set local eligibility rules for income and asset limits for RGI assistance. Under the new framework, service managers will be required to set these rules and make reasonable efforts to notify households once they come into effect. Both sets of rules will allow for flexibility for different unit types, sizes, and locations, as well as service manager discretion for extenuating circumstances, such as:

- Excluding universal child care benefit payments from income limits;
- Excluding compensation payments for pain and suffering from asset limits; and
- Exempting survivors of domestic violence or human trafficking from income and/or asset limits.

### *Income limits*

- Income limits must be set at least at the local HILs set out under [O. Reg. 370/11](#);



- The limit must apply to the net income of all household members, excluding full-time students, less any Registered Disability Savings Plan income and plus any Registered Disability Savings Plan amounts repaid (in line with RGI calculation rules set out under [O. Reg. 316/19](#)); and
- Income limits are *only* applicable to households on or applying for the waiting list (they are *not* applicable to determine ongoing eligibility for households receiving RGI assistance).

#### *Asset limits*

- Asset limits must be set at least at \$50,000;
- The limit applies to the total value of assets of all household members;
- Among other things, asset limits cannot include the value of funds in:
  - Registered Education Savings Plans (RESP) (existing in regulation);
  - Registered Disability Savings Plans (RDSP) (existing in regulation);
  - Registered Retirement Savings Plans (RRSP) (newly introduced in regulation);
  - Registered Retirement Income Funds (RRIF) (newly introduced in regulation);
- Asset limits are applicable to new RGI applicants, applicants on waiting lists, and households receiving RGI assistance; and
- Asset limits are *not* applicable to new or existing waiting list applicants or households receiving RGI assistance if *all* household members are part of a social assistance benefit unit (i.e., Ontario Works and Ontario Disability Support Program clients).

Service managers must periodically review and update their local income and asset limit rules at their discretion (and are encouraged to do so as part of their Housing and Homelessness Plan reviews).

Income and asset limit rules will come into force on **July 1, 2022**, and must be implemented no later than **July 1, 2023**. Existing rules will continue to apply until new rules are implemented.

#### ONPHA's analysis

ONPHA is pleased to see the intent of our recommendations related to [service levels, access](#), and [income and asset limits](#) largely incorporated into the new regulatory framework. The regulations aim to create a more consistent approach to housing access across the province, while maintaining flexibility to support those in the greatest need. While these new components of the regulatory framework will primarily impact service managers and waiting list applicants, housing providers will have a role to play in managing, tracking, and reporting on these changes. Housing providers also have a vested interest in providing equitable access to affordable housing options in their communities and to ensuring successful tenancies once households have access to housing that meets their needs.

#### *Service levels*

Overall, ONPHA supports the new service level requirements, which broaden the types of housing assistance that can be counted toward service levels. In particular, we are pleased to see that the



new regulations do not negatively impact the number of RGI units in the system and continue to focus on households in the deepest need (i.e., those with incomes at or below local HILs). This will ensure that existing capacity and affordability in the system is protected over the long term.

ONPHA would have liked to have seen the regulations explore opportunities to expand the number of RGI units in the system and more deeply broaden the types of housing assistance that can count toward service levels (as we highlighted in our recommendations). This would have helped to build a more responsive system based on a range of community needs (i.e., for deep and shallower levels of affordability), potentially alleviating some of the burden on current waiting lists for RGI assistance (although members have noted that the greatest need for housing assistance remains for deeply affordable housing).

We also would have liked to have seen a broader definition for the types of funders that can provide assistance in the new service level requirements beyond service manager-funded assistance only. Some housing providers offer internally-funded rent subsidies, many of which meet RGI criteria. By including internally-funded subsidies in service level requirements, the regulations could have encouraged other housing providers to explore similar opportunities where possible.

Nevertheless, ONPHA is glad to see additional types of income-tested benefits included in the new service level requirements, maintaining the focus on deep housing need, which could also positively impact waiting list volume. In transitioning to the new service level framework, it will be critical for guidance materials to ensure a streamlined process for all parties involved, including applicants, housing providers, and service managers (especially related to funding management, reporting, and tracking from the housing provider perspective). ONPHA looks forward to ongoing opportunities to engage with and support MMAH in the development of forthcoming materials.

### *Access*

ONPHA strongly supports the new access system framework outlined in the regulatory amendments. Beyond providing all available forms of government-funded housing assistance through the access system, service managers must also provide clear descriptions and application information for each type of available assistance.

These changes respond directly to ONPHA's recommendations for a more comprehensive, standardized access system. Our members have reported that some applicants with "shallower" housing needs may apply for RGI assistance through the centralized waiting list (as no other affordable options are available to them), while others with deep housing needs do not even apply at all, assuming that they will never be able to secure a unit due to the lengthy timelines and significant supply gaps.

These regulatory changes will help to create a more responsive, efficient system by transforming the access system into more of a "one-stop shop" for housing access in each service area, potentially



alleviating some of the burden on current waiting lists for RGI assistance, while promoting choice-based decision making for applicants. Further, the regulations enable Indigenous housing providers to retain control over their own waiting lists and tenant selection processes, which will help to ensure ongoing, equitable access to culturally-supportive housing for Indigenous households.

While ONPHA is glad to see these changes, we would have liked to have seen the regulations allow greater access for Special Priority Policy (SPP) applicants, including promoting the expansion of local priorities for SPP access to better meet the diverse housing needs across the province.

We also recognize that shifts in the access system alone will not have a substantial impact on decreasing wait times or increasing access to affordable housing options without accompanying and increased investment in the growth and renewal of community housing. ONPHA looks forward to ongoing engagement with MMAH to support community housing development initiatives, in addition to exploring opportunities to further streamline housing access with other related supports and services in collaboration with other relevant ministries and sectors, such as health care, long-term care, developmental services, social assistance, and homelessness.

#### *Income and asset limits*

ONPHA is pleased to see that the new amendments related to local eligibility rules for income and asset limits for RGI assistance provide flexibility, while guarding against some potential negative impacts. In particular, ONPHA strongly supports the exclusion of additional registered investments from asset limits (notably RRSPs and RRIFs), which we highlighted in our recommendations as critical to avoid unintended consequences, especially on low-income seniors and other vulnerable households.

In line with our recommendations, we are also glad to see that income and asset limits will not be set provincially, and that service managers will have discretion to set limits based on unit type, size, and location, as well as for extenuating circumstances. This is especially important to provide ongoing support for SPP applicants and other families undergoing separation.

While we would have liked to have seen both income and asset limits applied exclusively to waiting list applicants, we are glad to see the regulatory changes exclude households currently receiving RGI assistance from income limit rules (as these are already effectively maintained through annual RGI calculation reviews). ONPHA also supports the exclusion of households receiving social assistance from both income and asset limits. However, we are concerned that asset limits will continue to apply to both waiting list applicants and households receiving RGI assistance, which may lead to perverse impacts for existing tenants (e.g., the rapid divestment of assets with significant financial consequences and/or the loss of eligibility for RGI assistance with no guarantee of regaining eligibility or access to affordable housing options once the limit is met).

As noted above, forthcoming guidance materials should promote consistency and streamline administration requirements as the sector transitions to new local eligibility rules. Community housing





staff already face significant administrative burdens, especially those operating in multiple service areas who are required to administer different local rules and are bound by different reporting requirements. ONPHA looks forward to supporting MMAH in the development of guidance materials to guard against additional, unnecessary administration for housing providers.

### Next steps

In preparation for the changes related to service level requirements, access, and eligibility rules for income and asset limits for RGI assistance, ONPHA strongly recommends that housing providers engage with their service managers to understand local rules and when they will be coming into effect. The changes will come into force on a rolling basis over the next year:

- Service level requirements come into effect on **July 1, 2022**;
- Access system provisions will come into effect on **January 1, 2023**; and
- Service managers will have a one-year transition period to implement income and asset limit rules, starting **July 1, 2022**; the rules must be in place by **July 1, 2023**.

In addition to ongoing engagement with MMAH to develop sector guidance materials, ONPHA will also be offering new services to support the sector during this significant transition period. Stay tuned to ONPHA's communication channels for more details to come.

ONPHA is also looking forward to ongoing engagement with all community housing sector partners and stakeholders, including at the federal, provincial, and municipal levels, to ensure a sustainable, efficient, and resilient community housing system in Ontario, including long-term renewal, growth, and innovation.

If you have any questions, please do not hesitate to reach out to us at [member.support@onpha.org](mailto:member.support@onpha.org).