

**Chapter 3: Assessment of Income**

**(ii) Non-exempt Income**

**(e) Insurance Settlements**

<b>Intent:</b>	To provide direction regarding how insurance settlements impact Income Support eligibility.
<b>Act:</b> (if applicable)	<p>13. (1) Prior to making an application for income support and as a condition of eligibility for income support, a person shall pursue all other financial resources available to him or her or his or her spouse or cohabiting partner.</p> <p>(2) For the purpose of subsection (1), the requirement to pursue all other financial resources does not include the support referred to in section 38 of the Family Law Act .</p> <p>17. (5) A recipient shall notify the officer immediately of any changes that may affect that recipient's eligibility for income or employment support as prescribed by the regulations.</p> <p>(6) If, within the time period prescribed by the regulations, an applicant or recipient fails to consent or to comply with a direction of an officer under subsection (3) or (4), the officer may</p> <p>(a) declare the applicant ineligible to receive income or employment support; or</p> <p>(b) vary, suspend or cancel income or employment support provided to or for the recipient.</p>
<b>Regulations:</b>	<p>8. In this Part</p> <p>(c) "non-exempt income" means income received by an applicant or recipient for which no exemption applies and which is used in determining eligibility but does not include partially exempt income, and which may be obtained by means of</p> <p>(xi) income from an insurance claim whether it is paid in monthly instalments or by a lump sum payment;</p>
<b>Overview:</b> (if applicable)	N/A

**Policy:** Income Support applicants/recipients may be eligible for income as a result of an insurance claim/settlement.

- Such income is considered non-exempt when determining eligibility for Income Support benefits.
- Applicants/recipients must notify the Department of any changes in their situation that may affect their eligibility for Income Support. Such changes include the receipt, or potential receipt, of funds such as those received from an insurance claim/settlement.
- Funds received from insurance claims/settlements must be recovered for the overlapping period that the client was also in receipt of Income Support benefits.
  - Please refer to the policy on [Lump Sum Payments](#) when insurance settlements are issued in this manner.
- Legal costs charged in obtaining the settlement can be reduced from the total payout to the client when determining the overpayment or lump sum amount.

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**Procedure:** Client Services Officers:

- In instances when they are aware that a client is suing a third party, or if there is any potential for a client receiving an insurance claim/settlement:
    - have the client complete the “Repayment Agreement” form
    - request the name and contact information of the client’s solicitor and forward a signed copy of the form to them, ensuring that there is a clear understanding of the client’s obligation to repay Income Support benefits if they are awarded an insurance settlement
    - provide the client with a copy of the document
    - retain a copy in TRIM
  - Inform the client that it is their responsibility to advise their insurance company and solicitor that they are in receipt of Income Support benefits, and will be required to repay these benefits if they are awarded an insurance settlement.
  - The client and/or their solicitor should provide the Department with information on the amount of the insurance settlement,
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and a breakdown of what was involved (e.g. if there was a portion for pain and suffering, lost wages, etc.) once it has been awarded.

- Payments received for pain and suffering and global insurance settlements (e.g. lump sum insurance settlements with no specific breakdown) will be considered as income in the month that they are received, and liquid assets thereafter.
    - If the amount exceeds the client's monthly Income Support entitlement, there is no eligibility until the client's liquid assets are below the allowable amount.
  - Payments received for lost income must be assessed as income for the time periods covered by the payment. Any overlap with the period in which income support benefits were provided will be considered as retroactive non-exempt income and must be set up as an overpayment.
  - Once the insurance payment is received by the client, set up the relevant portion as an overpayment for the overlapping period.
    - The overlapping period of the overpayment is from the date of the accident or the date that Income Support benefits commenced (whichever is the later date), to the date of the insurance settlement,
    - Only the lesser of the insurance payment or the Income Support amount will constitute an overpayment.
    - Whenever possible, repayments by the client should be made in one lump sum.
      - Reasonable legal fees charged by the law firm/lawyer in obtaining the settlement, can be reduced from the lump sum payment when confirmation of payment of these fees have been received.
      - In cases where the deduction of legal fees reduces the remaining settlement amount to less than the amount owed for overlapping income support payments, only the amount received by the client will be considered as an overpayment/lump sum.
      - When settlements are made through lump sum, refer to policy on Lump Sum Payments.
    - For further information, please review policy on [Overpayments](#).
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<b>Authority Level:</b>	Client Services Officer
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