

Chapter 2: Eligibility

(iii) Determining Eligibility for Basic Income Support

(e) Support Applications Referral Process

Intent:	To provide guidelines for staff to assist an applicant/recipient to seek spousal support.
Act: (if applicable)	N/A
Regulations:	<p>8(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> <ul style="list-style-type: none"> (i) payments under the Canada Pension Plan, Old Age Security benefits, Veterans' Allowance, compensation under the <i>Workplace Health, Safety and Compensation Act</i>, employment insurance benefits, and pensions to the applicant or recipient or to his or her dependent from other sources, (ii) income received from a support trust by a person requiring supportive services according to section 25, (iii) income received from federal training allowances, (iv) an assessment based on 50% of the receipts from rental of rooms on property which is used by the applicant or recipient as a residence, (v) an assessment of rental income based on 50 % of that income after the deduction of municipal property taxes for rented real property in which the applicant or recipient does not reside, (vi) payments which are monetary in nature or which are quantifiable in monetary terms including payments which are by way of arrears and which are received as spousal maintenance or support by the applicant or recipient under a private agreement, a domestic contract or a court order,

- (vii) payments received by an applicant or recipient without dependents under the Canada-Newfoundland and Labrador Student Loan Program or successor program;
- (viii) net income received from a severance package which an applicant or recipient receives upon permanently severing from his or her employer for the period of time that the severance package is payable,
- (ix) income resulting from the sale of property or the sale of a fishing licence,
- (x) payments received as a result of an inheritance or from an estate, and
- (xi) income from an insurance claim whether it is paid in monthly instalments or by a lump sum payment; in the month that the payment, income, or inheritance is received;

Overview:
(if applicable)

- Applicants/recipients of Income Support are required to pursue spousal support whenever practical.
- Effective June 1, 2019, child support is considered exempt income and applicants/recipients are no longer required to pursue child support as a condition of eligibility for Income Support benefits.
- When applicants/recipients apply for child or spousal support, or request a variation, official family law forms should be used as found on the [Supreme Court of Newfoundland and Labrador website](#).
 - As child support is considered exempt income, the Departmental Minister should not be listed as an applicant/respondent for child support on family law forms, and applications for child support should not be made on behalf of the Minister.
- The Department provides information and assistance to applicants/ recipients in obtaining child and spousal support. The Department can also refer clients to the following services/agencies of the Department of Justice and Public Safety:

- Family Justice Services provides Parenting Information Sessions, dispute resolution and counselling for children and families.
- Child Support Recalculation Service assists parents in maintaining a fair amount of child support for their child in future years. Please see the [Child Support Recalculation Service Website](#) for further information.
- The Support Enforcement Agency assists in the enforcement of support orders.

Policy: Child Support:

- Effective June 1, 2019, child support payments are considered exempt income and do not impact eligibility for Income Support benefits.
- Although child support is considered exempt income, Departmental staff should continue to assist clients in procuring child support if they request assistance.
- Cases requesting assistance in obtaining child support can be referred to a departmental social worker through a [Support Referral form](#) or directly through CAPS, depending on regional practice.
- The Support Enforcement Program assists parents with matters of child support, particularly registering child support orders and collecting and distributing court ordered funds.

Spousal Support:

- Spousal support payments are considered non-exempt income and deducted in full from the amount of eligibility for Income Support entitlement.
- Spousal support cases can be referred to a departmental social worker through a [Support Referral form](#) or direct referral through the CAPS system, depending on regional practices.
- Income Support benefits can be provided to all new and active cases applying for spousal support for a limited period of time (30-60 days), unless an exemption is made (i.e. their former partner is in receipt of Income Support).
- The CSO should ensure that spousal support payments are reviewed annually, unless a recalculation clause is included in a previous order or registered domestic contract.

- If the Income Support applicant does not comply with a referral for spousal support, all Income Support benefits may be suspended or redirected to the local office.
- Spousal support is deducted from the client's Income Support eligibility when it is issued:
 - directly to the recipient by their former partner
 - to the Support Enforcement Agency which will forward the payment
 - to a third party on behalf of the client (a landlord, bank, etc.)
- If it is verified that spousal support payments are registered with the Support Enforcement Agency and payments have not been received within 10 calendar days of the due date, adjustments can be made to the client's Income Support entitlement.
- If spousal support has been subrogated (assigned) to the Minister, no money is deducted from the Income Support entitlement. Spousal support payments go directly to the Support Enforcement Agency who subsequently reimburse the Department.
- Referrals should be made for spousal support in the following cases:
 - All new and active cases where there is potential for spousal support
 - Active cases where the amount of spousal support has not been reviewed in the past twelve months, unless the recalculation clause is included in the existing order/agreement
 - The applicant/recipient is requesting a referral be made
- Spousal support referrals should not be made if the former partner is in receipt of Income Support benefits or is incarcerated. The CSO should establish a KIV date based on the circumstances for the exception.

Special Circumstances – Spousal Support

- Unknown Whereabouts
 - Prior to referring these cases, the CSO shall provide the applicant/recipient with suggested methods of obtaining information with respect to the whereabouts of their
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	<p>former partner such as through family, friends, employers, internet searches, etc.</p> <ul style="list-style-type: none"> ○ The CSO should KIV the case annually to obtain updated information and determine if another referral to a social worker is necessary. <ul style="list-style-type: none"> ● Victims of Violence <ul style="list-style-type: none"> ○ If the applicant/recipient indicates there are violence issues involving their former partner, the CSO should refer to policy relating to victims of violence to advise the applicant/recipient of the services available. ○ The CSO should advise of services offered to determine if they wish to complete a Support Referral form. If not, the CSO will need to address if and when this case should be KIV'd for future discussion and possible referral. ● Matrimonial Property <ul style="list-style-type: none"> ○ An applicant/recipient who has issues involving matrimonial property shall be encouraged to seek legal advice regarding the division of their property. Financial proceeds from settled property are considered when determining eligibility for Income Support benefits.
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<p>Procedure:</p>	<p>When there is potential for spousal support, the Client Services Officer should:</p> <ul style="list-style-type: none"> ● Advise the applicant/recipient of the requirement to seek support, and that payments will affect his/her Income Support benefits. ● When appropriate, forward the Support Referral form to the client for completion to determine the potential for obtaining support, and KIV the return date. ● Forward a copy of the completed Support Referral form to the Document Processing Unit for filing. ● If the applicant/recipient does not comply with the referral or does not engage in their services, the Client Services Officer may redirect the client's cheque to the local office or suspend further Income Support benefits. ● Enter into CAPS any spousal support income as non-exempt income. This income will be deducted in full from the Income Support entitlement.
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Expenses Incurred in Obtaining a Child or Spousal Support Order

- Recipients may incur expenses in their efforts to obtain a support order. Such expenses may include transportation or paternity testing.
 - Although child support is considered exempt income, supports may continue to be provided to a parent seeking child support, as noted below.
 - **Transportation**
 - If necessary, transportation may be provided for a recipient to meet with a lawyer, to discuss support or to attend court hearings relating to support.
 - Transportation may also be provided for clients to attend Parent Information Sessions at Family Justice Services and the initial intake appointment regarding child support when it is recommended by a departmental social worker. The district's transportation policy applies.
 - Transportation may be paid to see Family Justice Counsellors as per the medical transportation policy.
 - **Paternity Testing**
 - The court may order paternity testing to be completed, or a department social worker may arrange such testing at the request of the parent. For recipients of Income Support benefits, there is provision through the Income Support program to cover the costs of some or all of these tests under certain conditions. Please see the policy on [Other Special Needs](#).
 - **Service of Documents**
 - When clients are required to pursue the issue of support, there is a requirement that the other party be served notice. Normally, this is done by registered mail and the cost incurred is the responsibility of the applicant/recipient.
 - In some circumstances, personal service of documents may be required by someone other than a family or friend. When a departmental social worker
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advises that this cost is incurred, payment may be authorized using special needs.

Authority Level: Client Services Officer – special needs (paternity testing, service of documents)
Client Services Manager – permanent exemptions for referral to Family Justice Services (other parent deceased)

Date revised: June 6, 2019
