



**REPORT TO:** Co-Chairs and Members of Public Health and Social Services Committee

**SUBJECT:** Temporary Care Assistance: Obligation to Determine Permanency or Settled Intent

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## **RECOMMENDATION**

That this Committee recommends to Regional Council that with regard to ongoing eligibility for Temporary Care Assistance, Social Assistance and Employment Opportunities (SAEO) interpret the two following scenarios as demonstrated permanency or settled intent:

- a caregiver adopts a child through a Children's Aid Society (CAS) or should the child be in the care of a CAS, on adoption probation until the adoption is finalized; or
- a child is placed with a caregiver who has obtained legal custody of a child who is a former Crown ward under Section 65.2 of the *Child and Family Services Act* (CFSA)

## **EXECUTIVE SUMMARY**

- Temporary Care Assistance is a program under the *Ontario Works Act* which financially supports children up to the age of 18 years who cannot live in the parental home.
- Historically, there has been some disparity across the province in determining ongoing eligibility for this program.
- In an effort to ensure consistent application of policy across Ontario, the Ministry of Community and Social Services (MCSS) revised the Ontario Works directive regarding Temporary Care Assistance in July 2008. In late 2008, newspaper articles featured stories that MCSS changed eligibility and families were being cut off of Temporary Care Assistance.

- Previous to these changes, length of time was not a factor and eligibility for Temporary Care Assistance could be provided as long as the child continued to meet the financial eligibility requirements. The updated directive regarding temporary care now includes new wording linking ongoing eligibility to the length of time that the child has remained with the adult receiving Temporary Care Assistance.
- In response to questions raised by stakeholders after the media attention, SAEO staff met with Family & Children's Services, a local MPP, and advocacy groups *Grandparenting Again* and *Second Chance for Kids* to assure them that any changes would be carefully considered in light of any impact on families in need of Temporary Care Assistance.
- In order to inform decision making, SAEO staff has met with local family law experts, Niagara Region's legal counsel and MCSS to review definitions of permanency or demonstrated settled intent.
- Based on this review, SAEO recommends defining permanency or settled intent as either:
  - a caregiver adopts a child through a Children's Aid Society (CAS) or should the child be in the care of a CAS, on adoption probation until the adoption is finalized; or
  - a child is placed with a caregiver who has obtained legal custody of a child who is a former Crown ward under Section 65.2 of the *Child and Family Services Act* (CFSA)
- Currently, there are no families in Niagara in these two scenarios in receipt of Temporary Care Assistance as MCSS has stated that in these two scenarios, the child is defined as a dependent and is therefore not eligible for Temporary Care Assistance.
- Communication regarding this definition will be developed and distributed to stakeholders including MPPs, Temporary Care families and the two local advocacy groups *Grandparenting Again* and *Second Chance for Kids*.

## **FINANCIAL IMPLICATIONS**

There are no financial implications directly associated with this report. Temporary Care Assistance is within the 2009 approved Social Assistance and Employment Opportunities budget.

## **PURPOSE**

This report has been prepared to receive Committee and Council's approval of SAEO's definition of permanency or settled intent in relation to determining eligibility for Temporary Care Assistance.

## BACKGROUND

Temporary Care Assistance is a program under the *Ontario Works Act* which financially supports children up to the age of 18 years who cannot live in the parental home. Current rates for Temporary Care Assistance are \$236 per month for the first child and \$192 for the second child and each additional child. The child can also receive all other Ontario Works mandatory benefits for which he/she is eligible such as dental and drug benefits. Eligibility is based on the child's income and assets.

An adult providing temporary care is defined as an adult who has in his/her care, a child of whom he/she is not the natural or adoptive parent. In addition, the adult must not otherwise have a legal obligation to financially support the child, be pursuing support from the natural parent if it is available and not be receiving compensation under the *Child and Family Services Act*. Temporary Care Assistance is available for children up to age 18 as long as the child continues to meet eligibility requirements.

In late 2008, newspaper articles featured stories that MCSS changed eligibility for Temporary Care Assistance. The articles referred to comments made by the Minister of Community and Social Services in the House of Commons on Thursday October 9, 2008. Hansard notes reveal that the Minister said "Rules were tightened because the program is temporary aid and too many grandparents were getting support for years."

Council approved COM 30-2008 *Supports to Temporary Care Families* which resulted in correspondence to the MCSS requesting that grandparents and extended family members receive supports comparable to Foster Care allowance considering the potential long term social and health benefits. The report aligned with COM 24-2002, COM 44-2004, COM 79-2005 and COM 08-2007, advocating for changes to the *Ontario Works* and *Family Services Acts*.

In July 2008, MCSS issued updated Ontario Works Directives. SAEO staff completed a comparison of the directives and found that operations and local policy continued to be in compliance. Directive 3.10 (attached as Appendix B), regarding Temporary Care Assistance now includes wording regarding permanency and the obligation to determine whether the adult caring for the child plans to keep the child permanently thereby no longer qualifying for temporary care benefits.

In order to ensure consistency in determining permanency, SAEO conducted research of other legislative standards which define permanency (*Family Law Act*, *Child and Family Services Act*, etc). Until the standard was determined, Niagara continued with the past practices of determining eligibility as it was in compliance with directives and the *Ontario Works Act*.

## REPORT

The previous Temporary Care Assistance directive stated that “Where the circumstances giving rise to the need for the child to be in the care of an adult other than his or her parents are unlikely to change in the foreseeable future; the need for temporary care assistance may be provided as long as needed.” Length of time was not a factor and eligibility for Temporary Care Assistance could be provided as long as the child continued to meet the financial eligibility requirements.

The updated directive regarding temporary care now includes new wording related to the length of time that the child has remained with the adult receiving Temporary Care Assistance. MCSS now requires that eligibility for Temporary Care Assistance is also determined on whether the child’s living arrangements are *temporary* and if the adult caring for the child plans to keep the child permanently, they would no longer qualify for temporary care benefits. In assessing whether the living situation is permanent, MCSS requires that OW determine whether or not an adult caregiver has demonstrated a settled intention to treat the child as a child of his/her own family. Factors that show this settled intention or that the living arrangement is permanent include the adult’s involvement in medical, educational and recreational activities. This involvement shows care and responsibility and not necessarily permanency as it is assumed that an adult caring for a child would be involved in these activities.

In response to questions raised by stakeholders after the media attention last fall, SAEO staff met with Family & Children’s Services, a local MPP and advocacy groups *Grandparenting Again* and *Second Chance for Kids*. Correspondence was also forwarded to families in receipt of Temporary Care Assistance advising them of the approach to determine eligibility requirements in light of the new directive. The letter is attached as Appendix A. As of March 31, 2009, there was an average of 615 families who receive Temporary Care Assistance each month.

Staff have met with local family law experts, Niagara Region’s legal counsel and MCSS to review permanency or demonstrated settled intent. The *Family Law Act* states that settled intent brings with it the obligation to financially support children thereby making many current temporary care providers ineligible for Temporary Care Assistance. Therefore, SAEO has recommends that permanency or settled intent will be demonstrated in the following two scenarios:

- a caregiver adopts a child through a Children’s Aid Society (CAS) or should the child be in the care of a CAS, on adoption probation until the adoption is finalized; or
- a child is placed with a caregiver who has obtained legal custody of a child who is a former Crown ward under Section 65.2 of the *Child and Family Services Act* (CFSA)

Currently, there are no families in Niagara in these two scenarios in receipt of Temporary Care Assistance as MCSS has stated that in these two scenarios, the child is defined as a dependent and is therefore not eligible for Temporary Care Assistance.

This definition of permanency aligns with the intent of Temporary Care Assistance which is to provide financial assistance to children in financial need, as long as they continue to meet the financial eligibility criteria. Based upon local research, SAEO will continue to deliver the Temporary Care Assistance program according to the *Ontario Works Act*, applying the two inclusions of ineligibility. This will ensure Niagara Region's compliance while providing the necessary supports for Niagara's temporary care families.

Submitted by:

Approved by:

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Brian Hutchings  
Commissioner, Community Services

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Mike Trojan  
Chief Administrative Officer

*This report was prepared by Wendy Stewart, Manager and reviewed by Sarah Pennisi, Director Social Assistance and Employment Opportunities.*

*Appendix A*  
*Appendix B*

Letter to Temporary Care Providers  
Directive 3.10: Temporary Care Assistance



**COMMUNITY SERVICES**  
Social Assistance and Employment Opportunities  
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Tel: 905-984-6900 Fax: 905-641-2729  
[www.niagararegion.ca](http://www.niagararegion.ca)

January 9, 2009

Dear Temporary Care Provider:

RE: Ontario Works Directive #3.10 Temporary Care Assistance

As you may be aware, there have been several recent media stories regarding Temporary Care Assistance. The articles state that several grandparents are losing benefits as a result of changes in the Ministry of Community and Social Services (MCSS) policy. <http://www.mcsc.gov.on.ca/mcss/english/pillars/social/directives/index.htm>. We are writing to let you know how Niagara Region Social Assistance and Employment Opportunities (SAEO) is continuing to deliver the program.

The change in the policy states that eligibility for Temporary Care Assistance must include consideration of the permanency of the child's living arrangement. Based on this element, SAEO is currently reviewing how other legislations define "permanency" or "settled intent".

There are several upcoming meetings with Family and Children's Services (FACS) and Niagara Region lawyers in order to develop Niagara's position. We will also be consulting with MCSS and other municipalities as we move forward. It is expected that our position will be finalized early in 2009.

In the meantime, staff is instructed to make no immediate changes to the program delivery. We will continue to assess Temporary Care eligibility based on financial need of the child(ren). Niagara Region will continue to communicate with you as we move forward.

For further information, you may contact Wendy Stewart, Manager, Community Services at 905.641.9960 ext. 6002 or [wendy.stewart@niagararegion.ca](mailto:wendy.stewart@niagararegion.ca)

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Pennisi".

Sarah Pennisi  
Director  
Social Assistance and Employment Opportunities

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