

Community Housing Directive

RGI 2020-04 Fluctuating and Seasonal Income

Date of Directive: March 2020
Replaces Directive: RGI 2019-04
Effective Date: Immediate
 Until further notice
 To be updated annually
Legislation: Housing Services Act (HSA), 2011, s. 50(1), 52(1), 52(2)
Reference: Ontario Regulation 298/01 Part VII, s. 50(13), 52(1)(1.1), 52(2), 53(1)
Ontario Regulation 316/19
Applies to: HSA Providers (including Special Needs Providers)
 Non-HSA Providers
 Managers of Community Housing Wait Lists

Rationale

In order to determine monthly rent charges in family units, an average income must be determined. This can be challenging when the monthly income fluctuates, sometimes significantly. Until July 1, 2021, Housing Providers will follow the current direction of the Housing Services Act that does not give specific rules on the frequency of calculation but gives general guidance that average monthly income for family units may be determined “over such period of time as the service manager considers reasonable in the circumstances”.

Housing Providers calculate rent on behalf of the Service Manager. Numbers of units managed by Providers in Peterborough can range from 12 units to over 1000. With such a vast difference in the number of units requiring rent calculation, the frequency of recalculation that is considered reasonable can vary greatly.

Intent

To establish a consistent policy for rent calculation for family units with fluctuating income that applies to all sizes of Housing Providers.

To effectively balance administrative burden with fair processes and client-centred service.

Overarching Principles

1. All rules for calculations and timeframes for increases and decreases follow the Housing Services Act.
2. Establishing an average monthly income that is a reflection of total earnings is most accurate when it is based on a pattern over time rather than fluctuating amounts over a short period of time.
3. Monthly calculations are only used in the case of new employment or extenuating circumstances where a pattern for a longer timeframe cannot be established.

4. If there is a negligible difference in amounts, Providers should strive to choose the calculation method that results in the least amount of administrative work (e.g. quarterly vs. monthly, annually vs. quarterly).
5. Where possible, flexibility should be shown to promote client-centred service. This may be in form of using processes that best reflect the actual income received.
6. All rent/housing charge notices of change must be in writing.
7. All calculations are subject to review by the Peterborough Review Committee (PRC). Internal reviews of calculations must take place prior to a PRC application.
8. RGI increases of less than \$10 will not be implemented.

Implementation

Establishing Initial Rental/Charge Amounts

If a tenant/member of the household has **just started** employment with fluctuating income, there are limited ways to reasonably predict average monthly income in the first month. In this case, the household must bring in a letter from their employer stating the rate of pay and estimated number of hours expected in the first month. If this requirement negatively impacts the tenant/member, Housing Providers may show flexibility on other forms of verification that may be used. The first month's rent amount will be based on this estimate. For the next 3 months (i.e. quarter), the monthly rent/ charges will be calculated based on the previous month's income statements.

If rent/charges are to be based on **existing** employment with fluctuating income and there is enough information to establish a pattern, the first quarter may be estimated based on verified earnings and anticipated hours.

Extra lump sum payments such as vacation pay should not be included in determining initial rent and charges.

Quarterly Calculations

Once the first quarter has passed and the Provider is satisfied that a pattern has been established, the household will move to quarterly calculations. The monthly rental amount for the quarter is based on the average of the previous quarter.

Annual Calculations

Earnings should be averaged annually when quarterly reporting indicates that the earnings are not significantly different from year to year.

Recalculation

If a household notifies a Service Manager of a change in the income of the household, the Service Manager shall recalculate the Geared-to-Income rent payable by the household.

(O. Reg. 298/01, s. 53(1))

Households with fluctuating income will not have their RGI recalculated mid-way through the reporting period unless there is a significant and/or permanent change to fluctuating income. Significant and permanent changes may include:

- A new employment source with a significantly different income
- Cessation of employment
- The start of community assistance
- A permanent move from part-time to full-time hours or vice versa that significantly changes the monthly average earnings.

Temporary shifts of the number of hours worked do not normally warrant adjustments outside of the regular fluctuating income. (Reference: Community Housing Directive: Notification of Changes to Income or Household Information). Extenuating circumstances for recalculation will be at the discretion of the Housing Provider, using the approach of client-centred service.

E.g. A tenant/member's income is calculated quarterly and averages \$900 per month. The tenant/member notifies the Provider that a family member was in a car accident and they must cut their working hours in half to care for them for at least 6 months. The Provider conducts monthly rent calculations until a new pattern of income can be established.

Seasonal and Self Employment

Self-employment and seasonal income (where there are no earnings off season) are not considered fluctuating income.

Since calculations are based on the previous 3 months, quarterly rent calculations for these types of employment may be a detriment to tenants/members who may be required to pay their highest rent in their lowest season of income.

For this reason, annual rather than quarterly calculations for self-employment and seasonal income (where there are no earnings off season) are to be used once enough income information has been gathered to represent a year's worth of employment and a reasonable monthly average income amount has been established.

Extenuating circumstances to this may be reviewed on a case by case basis at the discretion of the Housing Provider using the approach of client-centred service.

Reporting Timelines

Quarterly reporting periods will begin on the first day of the month and end on the last day of the third month. Households with fluctuating earnings must submit verification of actual income **received** during this period.

Verification of income is due on the first day of the month following the end of the quarterly reporting period. For example, a household will submit verification of income received between January 1 and March 31 on April 1.

If the household does not submit their income verification by the 16th of the month, the Housing Provider will notify the household that the information is overdue and failure to provide it by the last day of the current month may result in ineligibility for RGI assistance.

If the income information is not returned by month end, the Housing Provider will notify the household that it is ineligible for RGI assistance and is responsible for the full market rent upon 90 days' notice. The household may request a review of a decision, first to the Housing Provider and then to the Peterborough Review Committee within 20 days of the decision. The decision of ineligibility may be reversed by the Housing Provider in the event that the verification is received.

Notices of increases and decreases to rental amounts will follow the directions outlined in the Housing Services Act.

Averaging Earnings

Housing Providers will average the earnings declared. In determining average earnings, the Housing Provider will:

Total all gross earnings and payments received during the reporting period

1. Divide by the number of weeks in the period
2. Multiply by 4.333

Definitions

For the purpose of this policy, **fluctuating income** is defined as income that:

- is unpredictable, irregular and changes from month to month;
- is generally hourly paid wages where the number of hours worked varies daily or weekly,
- is received from one or more employer(s) during the same month.

Examples of fluctuating income may include, but are not limited to the following:

- Salaried employees who receive frequent bonuses or gratuities
- Temporary employment through an employment agency or regular work with the same or different employers
- Bus or taxi drivers
- Home-care providers (i.e. to help people live independently)
- Piece work

Regulation Changes

Between July 1, 2021 and June 30, 2022, Housing Providers will be starting the simplified rent calculation outlined in new Ontario Regulation 316/19. At this time, this Community Housing Directive will be replaced by a new Directive. Until then, Housing Providers will continue to use their current processes detailed under the revoked Ontario Regulation 298/01, including those detailed in this Directive.

Starting July 1, 2020, the minimum rent amount will be increased to \$129 and indexed year over year to Ontario's annual rent increase guideline. The Ministry has developed a multi-year phase-in (\$8 per year) for existing RGI households paying less than the new minimum rent.

Forms and Resources

Fluctuating Income (FI) Rent Calculation Flowchart (Appendix A)

Contact

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Appendix A

