

DIRECTIVE

EFFECTIVE DATE: February 17, 2004

NUMBER: 2004-01

The policies, procedures and County requirements in this Directive are to be implemented by housing providers that are funded under the following Programs, which are administered by the County:

Please note if your program is not checked, this Directive is not applicable to your project(s), and is for information purposes only.

✓	Federal/Provincial Non-Profit Housing Program	✓	Rent Supplement - Commercial
✓	Ontario Non-Profit Housing Programs	✓	Rent Supplement-Homelessness Initiative
✓	Federal/Provincial & Ontario Co-operative Housing Programs	✓	Rent Supplement-OCHAP & CSHP
✓	Simcoe County Housing Corporation		

SUBJECT: REIMBURSEMENT FOR OVERPAYMENT OF RENT-GEARED-TO-INCOME ASSISTANCE

BACKGROUND

The County of Simcoe has delegated responsibility for the calculation of rent-geared-to-income (RGI) assistance to housing providers. There may be occasions when a household is charged less RGI than it should have been charged. The reason for this may be that the household did not provide full or accurate information to the housing provider, or possibly the housing provider made an error in determining the amount of RGI payable.

The Social Housing Reform Act 2000 (SHRA) gives a service manager the power to request that a household reimburse it for any RGI assistance paid by the service manager on behalf of the household in excess of what should have been paid.

The service manager may collect the amount owing by increasing the amount of the RGI payable by the household or by any other means available at law.

If the service manager decides to collect the amount owing by increasing the amount of RGI payable by the household, the amount of the increase cannot exceed 10% of the RGI that would otherwise be payable by the household.

Before increasing the RGI payable by the household by way of reimbursement, the service manager must give the household written notice of the increase, specifying the amount of the increased RGI payable by the household, and that the increase takes effect on the first day of the second month following the month in which the notice is given.

The increase is effective just until the amount owing is paid.

This document sets out the policy and procedures to be followed by applicable housing providers in the County of Simcoe regarding reimbursement of overpaid RGI assistance.

FRAUD AND MISREPRESENTATION

If a household has deliberately not provided information to a housing provider in order to avoid paying a higher amount of RGI, the household shall cease to be eligible for RGI assistance. The housing provider may pursue fraud charges against the household and/or seek remedy through the Ontario Rental Housing Tribunal for misrepresentation of income.

In such cases the option of seeking reimbursement for an overpayment of RGI assistance, in the manner contemplated by section 86 of SHRA, will not be appropriate. Furthermore, the household will not continue to receive RGI assistance.

WHEN TO SEEK REIMBURSEMENT

When a household has been charged less RGI than it should have been for a period, the housing provider **must always seek reimbursement** from the household **if the reason** for the overpayment of RGI assistance **is that**

- a) the housing provider made a mistake in calculating the amount of RGI payable by the household, or
- b) the household failed to supply relevant information to the housing provider, but the household was acting in good faith, in the sense that it was not deliberately trying to avoid paying a higher amount of RGI.

EFFECTIVE DATES

A household in receipt of RGI assistance has a duty to report changes in household income within 20 business days after the changes take place. If a change results in an increase in RGI payable, the increase is effective from the first day of the second month following the month in which the change occurred. If a change results in a decrease in

RGI payable, the decrease is effective from the first day of the month immediately following the month in which the change occurred.

If a household reports a change outside of the 20 business days the housing provider may decide to make the household ineligible for RGI assistance, or it may accept that the household is acting in good faith and consider that it is reasonable to accept the late reporting of the change in income. However **the effective date of any increase or decrease in the amount of RGI payable remains relative to the month in which the change occurred.** The effective date of the increase or decrease in RGI payable is not relative to the month in which the change is reported. Therefore there may be cases where it is necessary to backdate the date of changes in RGI payable.

e.g. A household receives an income increase of \$60.00 per month from January 15, but does not report the change until March 1. The housing provider accepts that the household is acting in good faith, with no intent to misrepresent income, and on March 7 sends the household a notice of RGI payable based on the newly reported household income. The RGI payable by the household increases by \$20.00 per month effective from March 1, i.e. the first day of the second month following the month in which the change occurred. The household paid rent for March before it received the notice of RGI payable. Therefore the household paid RGI at a rate of \$20.00 lower than the rate that it should have paid for the month of March.

NOTICE OF AMOUNT OF RGI PAYABLE

A housing provider must give a household written notice of the amount of RGI payable by the household. In order for a household to understand how the amount was calculated, and to give the household an opportunity to identify any calculation mistakes, it is good practice for a housing provider to attach a copy of the calculation sheet to the notice of the amount of RGI payable.

HOW TO SEEK REIMBURSEMENT

The housing provider who seeks reimbursement from a household must decide on the method by which the overpayment of RGI assistance shall be repaid.

Depending on the co-operation and ability to pay of a household, the housing provider should choose a re-imbusement method according to the following order of priority:

- 1) The household repays the full amount of the overpayment in one lump sum,
- 2) The household enters into a written agreement to repay the overpayment in installments.
- 3) The housing provider gives written notice to the household to increase the amount of RGI payable by the household by no more than 10% of the amount of RGI that would otherwise be payable by the household. The increase takes effect on the

first day of the second month following the month in which the notice is given, and is effective just until the amount owing is paid.

e.g. A household pays \$400.00 RGI per month. In February the household reports a change in income which should result in an increase in the amount of RGI payable to \$460.00 per month, effective April 1 (the first day of the second month following the month in which the change occurred). The housing provider gives the household written notice of an increase in the amount of RGI payable, effective April 1. However, the housing provider makes a calculation mistake, and the RGI is increased to only \$440.00 per month, as of April 1. In July the housing provider realizes its mistake. The household is given written notice in July that the amount of RGI payable by the household is \$460.00 per month, effective from April 1 (the first day of the second month following the month in which the change occurred). The household must pay \$460.00 per month as of August 1, but also must reimburse the housing provider for the \$20.00 per month overpayments of RGI assistance, from April to July inclusive.

The housing provider decides to collect the overpayments by increasing the amount of RGI payable by the household by 10% of the RGI that would otherwise be payable, i.e. $\$460.00 + (\$460.00 \times 10\%) = \$506.00$ per month. Therefore the housing provider gives the household another notice, also in July, stating the increase in RGI for reimbursement purposes. The notice specifies that the amount of RGI payable is \$506.00 for Sept. 1 (the first day of the second month following the month in which the notice is given), \$494.00 for October 1, and \$460.00 for November 1 and thereafter.

HOW TO ACCOUNT FOR REIMBURSEMENTS

- A. Where overpayments of RGI assistance are reimbursed by increasing the amount of RGI payable by a household, the reimbursements will simply be accounted for as RGI received.
- B. Where reimbursement is made by a method other than that described in A., for example through a separate repayment agreement, the money must also be accounted for as RGI received. It must not be accounted for by reducing the amount of a housing provider's bad debts, because unpaid RGI is not written off as bad debt. This rule also applies when an RGI household leaves or becomes a market tenant without having fully reimbursed a provider for overpaid RGI assistance, but subsequently the household does make repayments.

Accounting for reimbursements in this way may necessitate entering the money received as 'rental income for RGI units' on the Annual Information Return (A.I.R.). When this is done a note of explanation should be added to the A.I.R. regarding the relevant column/line.

LEGISLATIVE REFERENCES

SHRA ss 69 & 86, Ontario Regulation 298/01, ss. 53 & 54.