



# Income Assistance **Initial Eligibility**

## **Contents**

Legislative Framework.....	1
Policy Manual.....	1
Initial Eligibility.....	2
Budget Deficit.....	2
Residence.....	2
Other Sources of Income.....	2
Assets.....	3
Reasonable Dissipation of Assets.....	3
Age.....	3
Spouses.....	4
Rules Relating to Spouses.....	4
Employment.....	4
Education.....	5
Applying for Income Assistance.....	5

January 1, 2014

<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

## Legislative Framework

Income Assistance is governed by the *Employment Support and Income Assistance Act (ESIA)*:  
<http://nslegislature.ca/legc/statutes/employsp.htm>

There are also two sets of Regulations:

- i. The first set of regulations are key. They provide all of the details on how Income Assistance operates on a day to day basis: <http://www.gov.ns.ca/just/regulations/regs/esiaregs.htm>
- ii. The second set of regulations govern the appeal process:  
<http://www.gov.ns.ca/just/regulations/regs/esiaappl.htm>

## Policy Manual

The Department of Community Services also has a Policy Manual for Income Assistance:  
[http://novascotia.ca/coms/employment/documents/ESIA\\_Manual/ESIA\\_Policy\\_Manual.pdf](http://novascotia.ca/coms/employment/documents/ESIA_Manual/ESIA_Policy_Manual.pdf)

The Policy Manual is **not** the law! The *ESIA* and *ESIA Regulations* are the law, and the Policy Manual is only valid insofar as its contents reflect the law.

Nonetheless the Policy Manual is extremely important as it is what Income Assistance caseworkers use in making their decisions.

## Initial Eligibility

### Budget Deficit

The most basic eligibility criteria for IA is the budget deficit system. The budget deficit system works as a ledger:

Allowable Expenses:	Chargeable Income:
Personal Allowance	Employment Income (including spouse's income)
Shelter Allowance	Child Support
Special Needs	Canada Pension Plan
	Etc... (a full list of chargeable income is found in <i>Regulation 47</i> )
<b>Total Allowable Expenses</b>	<b>Total Chargeable Income</b>

An IA applicant's allowable expenses must exceed their chargeable income to be eligible for IA – see *Regulation 11*.

### Residence

*Regulation 14; Policy Manual 5.1.1 & 5.11.1 – 5.11.7*

An applicant must be present in Nova Scotia at the time of their IA application.

There is no minimum residency period before someone can apply for IA.

### Other Sources of Income

*Regulation 12; Policy Manual 5.1.4*

Income assistance is a program of last resort.

Someone is ineligible for IA if there is another feasible source of income or applicable assets available to provide for their basic and special needs.

A feasible source of income could include: CPP, OAS, GIS, child or spousal support, EI, etc...

IA applicants and recipients are under an obligation to commence legal proceedings or enforce court orders that would provide them with financial support.

## Assets

*Regulations 2(f), 54, 55 & 60A; Policy Manual 5.7.10 – 5.7.15*

At the time of application a single person will be ineligible for IA if they have more than \$1,000.00 in assets.

At the time of application a family will be ineligible for IA if they have more than \$2,000.00 in assets.

If IA is denied on the basis of excess assets an applicant must wait at least 1 month and not more than 1 year before reapplying for IA.

Examples of assets that are not considered when assessing eligibility include:

- i. An applicant's primary residence;
- ii. A motor vehicle used for basic transportation;
- iii. A Registered Education Savings Plan (RESP);
- iv. An Registered Disability Savings Plan (RDSP); and
- v. Tools or equipment related to a trade or profession.

## *Reasonable Dissipation of Assets*

*Regulation 55; Policy Manual 5.7.16*

An applicant can also be denied IA if they unreasonably dissipated assets within 1 year of their application for IA, as determined by a supervisor.

Reasonable dissipation of assets by either an IA applicant, or recipient, includes:

- i. Personal and family shelter – including the purchase of a home;
- ii. Basic needs;
- iii. Necessary home repairs; **or**
- iv. Replacement of necessary items.
- v. Proof that assets were spent on those items must be provided (i.e. receipts).

## Age

*Regulations 14 & 66; Policy Manual 5.1.1 & 5.10.1*

The general rule is that a person must be 19 to apply for IA in their own right.

A person aged 16-18 can apply for IA if in the opinion of a caseworker:

- i. They are exposed to an unsafe home environment;

- ii. An unresolvable parental conflict; or
- iii. Unable to remain at or return to home due to a parental decision.

A youth must also be willing to:

- i. Participate in an employment plan;
- ii. Attend school;
- iii. Live somewhere with a level of supervision, accountability and guidance appropriate for their age; **and**
- iv. Access medical and counseling services as required.

A caseworker may grant IA to a youth living alone if the caseworker is satisfied they have the necessary life skills and maturity to live alone.

## Spouses

*Regulations 2(ac) & 2(ja)*

According to the *ESIA Regulations* a spouse includes a husband or wife of an applicant or recipient **or** a common-law or same-sex partner of an applicant or recipient.

Common law partners must live with one another in a relationship of interdependence – both economically and domestically. In addition **1** of the following must apply to the 2 people in the relationship:

- i. They have lived together for 12 consecutive months;
- ii. They have a child or children – either by birth, adoption or legal custody;
- iii. They previously lived together for 12 consecutive months, including any separation of less than 90 days; **or**
- iv. They advise a caseworker they are a common-law couple.

## *Rules Relating to Spouses*

*Regulations 47(1)(a) & 10; Policy Manual 5.7.1 & 5.17.3*

A spouse's income is included with an applicant's income when applying for IA.

An applicant is ineligible for IA if they have separated from their spouse for the purpose of qualifying for IA.

## Employment

*Regulations 21(1) & 21(2); Policy Manual 5.17.6 – 5.17.7*

Applicants will be subject to a 6 week waiting period if they or their spouse within 4 months prior to their application for IA:

- i. Quit a job without just cause;
- ii. Were fired with just cause; or
- iii. Quit a job for the purpose of qualifying for assistance.

While 'just cause' is not defined in the *ESIA* or *ESIA Regulations*, the Policy Manual (5.17.6) indicates that income assistance can be granted where there are justifiable circumstances for quitting or having been fired from employment. The only example provided in the Policy Manual is where the health or safety of the individual was in jeopardy.

People engaged in a strike or who are locked out by their employer are not eligible for IA.

## Education

*Regulation 67; Policy Manual 7.3.1 – 7.3.4*

IA will **not** be given to, with very limited exceptions, a person attending a post-secondary education program of more than 2 years in length.

In order to participate in an post-secondary education program of two years or less in length an IA recipient **must**:

- i. Have been the subject of an employability assessment that recommends participation in a post-secondary education program of 2 years or less;
  - ii. Have pursued other sources of income, but they are unavailable or insufficient;
  - iii. Have been in receipt of IA for the 6 months immediately preceding the start of the program;
- and**
- iv. Be available for work when not in school.

Only IA recipients who are funded by the Employability Assistance for Persons with Disabilities Program or participants in the Career Seek Pilot Project are eligible to attend a post-secondary education program of more than 2 years in length.

Additional funds for books and tuition are **not** provided by IA.

## **Applying for Income Assistance**

*Regulations 5 & 9; Policy Manual 5.1.3 & 5.1.8*

In order to apply an Applicant must go to their local Department of Community Services office, and complete an application.

A list of Community Services offices can be found here:

<http://novascotia.ca/coms/departement/contact/index.html>

At the time of application applicants will be asked to provide information to verify their eligibility for IA, and will be asked to sign a release to allow the Department to obtain necessary information from 3<sup>rd</sup> parties.

If an IA Applicant, or Recipient, would suffer undue hardship (in the opinion of a caseworker) by having to provide required documentation in a timely manner assistance **may** be granted pending the provision of the required documentation.

## Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

## Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

Laws change frequently. We will try our best to make sure the information contained in all of our documents, as well as any other information you receive from Dalhousie Legal Aid Service, is reliable. However, **we cannot guarantee that the information in this document is completely accurate and up-to-date.** By accessing information from Dalhousie Legal Aid Service you assume any risks that arise from doing so.