



At McKellar, it's about more than structured settlements.

McKellar Structured Settlements has been advocating for seriously injured and disabled Canadians for almost 40 years. Our dialogue with the Ministry of Community and Social Services in Ontario helped pave the way for some landmark changes to the way the Ontario Disability Support Program (ODSP) views personal injury and Accident Benefits settlements.

McKellar STRUCTURED
SETTLEMENTS

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IMPORTANT DEVELOPMENTS FOR PERSONAL INJURY SETTLEMENTS AND ODSP

Tort and Accident Benefits settlements or awards in any amount which are in respect of claims for future medical care and pain and suffering (and any accompanying prejudgment interest) are fully exempt from consideration for ODSP eligibility.

While a lump sum amount for future care and pain and suffering is exempt, any interest or other income earned on an exempt compensation award is considered income and an asset (*subject to any other applicable exemptions*).

Structured settlements funded with exempt settlement funds are not considered assets, and structured settlement payments received by an ODSP recipient (*up to the initial funding amount of the structure*) are not considered income by ODSP.

For example, if \$500,000 of future care and pain and suffering settlement funds are used to establish a structured settlement, the monthly payments or lump sums generated by that structure are fully exempt as income to the ODSP recipient until the cumulative total of the payments over time exceeds \$500,000. If the cumulative total of the payments never reaches \$500,000 before the ODSP recipient reaches age 65, all of the structure payments will be fully exempt as income by ODSP.

In a conventional investment or deposit, any interest generated by the investment or deposit of those exempt funds (*whether received or simply accrued*) would likely

result in a clawback, dollar for dollar, of the monthly ODSP entitlement.

In accordance with section 5.1 of the ODSP Directives, ODSP recipients are required to pursue potential sources of income available to them as a result of any settlement or award. Disregarding the opportunity to structure, and instead making a choice to conventionally invest or deposit a settlement or award, may result in the complete loss of ODSP benefits. An individual who hopes to maintain or pursue entitlement to ODSP benefits has the best chance of doing so by structuring as much as possible of the exempt funds they receive as part of a settlement or an award.

The following payments continue to be treated as income and/or assets for the purpose of determining ODSP entitlement:

- Income Replacement Benefits
- Non-Earner Benefits
- Past or Future Loss of Income (*including any accompanying prejudgment interest*)
- Punitive Damages Awards

Please contact us if you have any questions.