



ARCH Disability Law Centre

A Guide to Attendant Services in Ontario

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Disponible en français

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**DISCLAIMER: The information provided in these materials is not intended to be legal advice. Consult a lawyer or legal worker if you need legal advice on a specific matter. This information is current as of August 2019.*

Please note that the information in this Guide does not apply to all situations. A person's accommodation needs may vary over time and at different points in the day.

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Introduction

What are Attendant Services?

Persons with disabilities can live independently in their community if they have supports to assist with their personal daily routines. "Attendants" are the people who provide this kind of help, and the ways that they help are known as "**attendant services**."

This Guide focuses on **attendant services** or personal support services, which are a type of **community service**.

Community services cover all types of services, including:

- community support services, like meal and transportation services,
- homemaking services such as light housekeeping and meal preparation,
- professional services like nurses and physiotherapists, and
- personal support services such as routine personal activities of daily living and personal hygiene.

If you get attendant services, it is up to you to decide which tasks you want help with. You are the one who gives your attendant directions about what you want done, when, and how.

Community and attendant services are delivered by **individual agencies or service providers** across the province.

You may be able to get community support services, homemaking services, and professional services from some of the agencies that provide attendant services. There are separate rules about who can get these services.

What is Independent Living?

The Independent Living movement promotes persons with disabilities being active consumers of services rather than passive recipients of care.

Attendant services evolved out of the Independent Living movement. The goal of attendant services is to allow persons with disabilities to live in their community and lead independent lives.

Who can get Attendant Services?

There is no charge for publicly funded attendant services. They are paid for by the Ontario government's Ministry of Health and Long-Term Care (MOHLTC).

To be eligible for attendant services, you must:

- have a valid Ontario Health card;
- be 16 years of age or older;
- have a permanent physical disability and need physical assistance with activities of daily living such as bathing, dressing, transferring, and toileting;
- be able to direct your own attendant services. This means that you must be able to communicate with your attendants about what you want them to do, when, and how; and
- be able to have your needs for medical or professional services met by the community health network that already exists.

You may **not** be eligible for attendant services if it is not possible to provide the services you need without putting you or your attendant at significant risk of physical harm.

How Are Attendant Services Provided?

Attendant services are available through:

- 1) Support Service Living Units (SSLUs) or assisted living in supportive housing;
- 2) Shared Living Units;
- 3) Attendant Outreach Services;
- 4) Direct Funding; and
- 5) Local Health Integration Networks (LHINs).

1) Support Service Living Units (SSLUs) or assisted living in supportive housing

- These are accessible units in apartment buildings where one agency provides attendant services to several tenants in the building. You must use the agency's attendant services if you move into an SSLU.
- The agency will usually provide attendant services and homemaking services on a schedule that they arrange with you ahead of time. If you need services outside these times, you can usually get them from attendants who are "on call" 24-hours a day.

2) Shared Living Units

- A group of people live together and get attendant services and other services. This kind of housing is for people who have limited ability to direct their own care or people who need many kinds of services.

3) Attendant Outreach Services

- Outreach services provide attendant services in your home, workplace, school, college, or university.

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- Attendants are available from 6 AM until midnight.
 - You need to schedule your attendant ahead of time. No emergency or on-call services are provided.
 - There is a limit on the number of hours allowed. Attendant services plus homemaking services must total no more than ninety (90) hours per month. You may be able to get special approval for more hours.

4) Direct Funding

- The Direct Funding program makes it possible for adults with disabilities to employ their own attendants.
- Under this program, you are fully in charge of your own attendant services. You are responsible for hiring, training, scheduling, supervising, and, if necessary, firing your attendants.
- The Centre for Independent Living in Toronto (CILT) administers the program in partnership with the Ontario Network of Independent Living Centres (ONILC) and it is funded by the Ontario Ministry of Health and Long-Term Care through the Toronto Central Local Health Integration Network.
- To get Direct Funding, you must go through a detailed application process. You will also be asked to attend an interview.

5) Local Health Integration Networks (LHINs)

- LHINs coordinate services for seniors, people with disabilities, and people who need health care services to help them live independently in the community. LHINs do not provide direct health care services.

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- Staff at the LHINs provide information and coordinate professional, personal support, and homemaking services for people living in their own homes, and for school children with special needs.
 - LHINs also determine eligibility and make arrangements for admission to supportive housing/assisted living programs, and to certain chronic care and rehabilitation beds, and to all long-term care facilities.
 - There are fourteen (14) LHINs in Ontario, and you can find your local LHIN here: <http://www.lhins.on.ca>. But LHINs may be replaced in the future because of the *People's Health Care Act, 2019*.

Know your Rights

In Ontario, the rules about most attendant and community services are set out in the *Home Care and Community Services Act, 1994*.

The Home Care and Community Services Act

The *Home Care and Community Services Act, 1994* applies to many services funded by the Ministry of Health and Long-Term Care, including community services.

Your Rights under the Home Care Bill of Rights

The *Home Care and Community Services Act, 1994* contains the *Home Care Bill of Rights (Bill of Rights)*. The *Bill of Rights* is a set of rules about how people who receive services should be treated – both by the people providing the services and also by the people managing the services.

The *Bill of Rights* lists nine (9) rights. These are:

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1. be treated with respect and to be free from abuse
 2. have your privacy and dignity honoured
 3. have your needs and preferences respected
 4. receive information about the services you get
 5. take part in decisions about your services
 6. consent to or refuse services
 7. raise concerns without anyone taking action against you
 8. receive information about home care laws and policies and how to make a complaint
 9. have your home care records kept confidential

Frequently Asked Questions

1. What can I do if I am not happy with my attendant services?

In order to resolve day-to-day problems, the person directing the services (you) is responsible for addressing issues.

Start by writing your issues down, or ask someone to write them for you. Talk to someone you trust about the problem. Some problems may be resolved quickly from the outset if you discuss them directly with your attendant.

Some tips to resolve problems with attendants include:

- Don't be afraid to say how something affects you or makes you feel;
- Deal with only one or two issues at a time;
- Have a possible solution in mind;
- Be prepared to listen;
- Give some positive feedback; and

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- Ask for feedback.

Complaining to the Agency

Each agency that provides attendant services must have a complaints policy. If you are not happy with the services provided in a Support Services Living Unit, or a shared living unit, or with outreach or LHIN services, you can request a copy of the agency's **complaint and appeals policies**. Follow the directions in these documents to make a complaint. Ask to meet with management to help resolve your issues.

When possible, have the attendant present during the meeting with management. Remember, whatever you say about the attendant will get back to the attendant, so be respectful.

If the decision the agency made is about the quality of services you are receiving or about your rights not being respecting under the *Bill of Rights*, you have a few options about how to respond if you are unhappy. Please refer to **Question 4** below for a list of your options.

If the decision the agency made is about your eligibility for a community service, exclusions from a community service, or about amount or termination of a community service, you can appeal to Health Services Appeal and Review Board.

2. What kinds of complaints can I take to the Health Services Appeal and Review Board?

The Health Services Appeal and Review Board (HSARB) is an independent tribunal.

Before you file an appeal with HSARB, you must have tried all other internal complaints processes. This means you already complained to your agency and your problem was not resolved to your satisfaction.

You can go to HSARB if your appeal is about the **quantity** of service, such as the number of hours of service or the types of services offered. Specifically, HSARB deals with an agency's decision about:

- eligibility for community services;
- exclusions from a community service;
- the amount of a service; and
- the termination of a service.

HSARB **cannot** deal with appeals about violations of the *Bill of Rights*. HSARB also cannot deal with appeals about the **quality** of service you are receiving.

The contact information for HSARB is:

Health Services Appeal and Review Board

151 Bloor Street West, 9th Floor

Toronto, Ontario, M5S 1S4

Tel: 416-327-8512

Toll Free: 1-866-282-2179

TTY: 416-326-7TTY

Toll Free TTY: 1-877-301-0TTY

Fax: 416-327-8524

Email: hsarb@ontario.ca

Website: www.hsarb.on.ca

3. How Do I Complain to HSARB?

Notice Requesting a Hearing

To complain to HSARB, you need to let HSARB know you are appealing the agency's decision. To do this, you need to give HSARB a written notice that says you require a hearing. Your **notice requesting a hearing** must include:

- your name, address, and contact information;
- a request for a hearing;
- the date of the decision;
- who made the decision (provide the name and contact information for the agency, and the name of the person who made the decision);
- a copy of the decision; and
- details of the decision you are appealing, including the substance of your appeal, the reasons given for the decision, and why you disagree with the decision.

If you are represented by a lawyer, provide their name and contact information. You do not need a lawyer to appeal to HSARB, but it may be helpful.

You must provide the service agency with copies of all information that you give to HSARB. This is called **servicing** the agency with your notice of appeal. Proof that you served the agency has to also be filed with HSARB.

HSARB Hearing

Before a hearing is held, a **pre-conference meeting** will take place, usually over the telephone. The purpose is to narrow issues, determine if there are any agreed upon facts, and try to settle the appeal if possible. Pre-hearing conferences are strictly confidential and not open to the public.

A **hearing** is a chance for HSARB to hear your appeal. The hearing is when everybody involved in the appeal can share their position and concerns. You should gather information such as documents, recordings of any kind, statements, or witnesses to support your appeal. HSARB may ask for:

- disclosure of documents relied on to be exchanged before the hearing;
- a list of all documents in a party's possession;
- will-say statements from witnesses; and
- copies of expert reports.

The hearing can happen in person, in writing, or electronically (for example over SKYPE or telephone). There will be at least three members of HSARB at the meeting and a court reporter. You, any witnesses you bring, and whoever the agency sends will also be there.

HSARB hearings are fairly formal. The consumer presents facts of the case first. If there are witnesses, the consumer has to call them as part of the case. This is followed by questioning, also known as **cross-examination**, done by the other party. Next, the Agency will present its case and its witnesses, if any. The Agency and any witnesses will be cross-examined by the consumer.

A HSARB hearing is open to everyone so if you feel there is sensitive information that you do not want made public, let HSARB know in advance that you want the hearing in private. Hearings are recorded so a party can ask for a transcript.

Decision

Within three (3) days after the hearing, the HSARB can decide to:

- stay with the same decision the agency originally made;
- get rid of the decision the agency made, and ask the agency to make a new decision; or
- get rid of the decision the agency made, and make a new decision that the agency has to apply.

In certain circumstances, HSARB can award money to the parties of the appeal.

Reconsideration

If you are not happy with HSARB's decision, in certain circumstances, you can ask HSARB to **review** their decision within ten (10) days from the decision. Reasons to request a review include: significant new evidence which was not available at the time of the original proceeding, HSARB making a material error of law or fact such that it would have reached a different decision, and material changes to the circumstances since the original decision.

Another option is to request for HSARB's decision to be **judicially reviewed** by a court. You can ask for a judicial review if you feel HSARB did not follow the law.

If you would like to challenge HSARB's decision, talk to a lawyer about your options.

4.I complained to my service provider about quality of services and my problem was not resolved. What else can I do?

If your service provider has not solved your problem about the quality of attendant services you are receiving, or if you feel like your rights are not being respected under the *Home Care Bill of Rights*, you have some options.

Depending on the situation, you can contact:

1) ARCH Disability Law Centre

- Tel: 416-482-8255
- TTY: 416-482-1254

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- Toll Free: 866-482-2724
 - TTY Toll Free: 866-482-2728
 - Email: archintake@lao.on.ca
 - Website: www.archdisabilitylaw.ca

2) An Independent Mediator to help reach agreement with all parties

- The Ontario March of Dimes offers a mediation service. You can find them online at: www.marchofdimes.ca
- telephone: (416) 425-3463 ext. 7725
- toll free: 1-800- 263-3463

3) Member of Provincial Parliament, and/or City Councillor

- Use a postal code to locate your MPP/Provincial Electoral Riding: www.ontla.on.ca/lao/en/members

4) The Ministry of Long-Term Care's ACTION Line

- This is a service that take concerns and complaints from persons receiving service from Long-Term Care Homes and LHINs
- Callers have the option of speaking to an Independent Complaints Facilitator to discuss their concerns
- Telephone: 1-866-876-7658.
- For more information, visit: www.health.gov.on.ca/en/common/system/services/lhin/ltc_actionline.aspx

5) Patient Ombudsman

- The Patient Ombudsman will accept a complaint only if you have already pursued all other processes available to you like the agency's internal complaints process.

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- The Patient Ombudsman will not get involved in HSARB matters.
 - There is no guarantee that the Ombudsman will deal with any particular complaint. For more information, see: www.patientombudsman.ca

6) Professional Colleges

- You may be unhappy about home care services from a social worker or health care practitioner, such as a nurse, occupational therapist, or physiotherapist. If so, you can make a complaint to the "college" or organization that regulates that person's profession. There are twenty-nine (29) health professions that are regulated by a college in Ontario.
- The organization that regulates social workers is called the Ontario College of Social Workers and Social Service Workers. For more information, go to their website at www.ocswssw.org
- There is no organization that regulates personal support workers.

7) Human Rights Tribunal of Ontario

- If you feel that you were discriminated against, you may be able to bring a human rights complaint. You can file an application to the Human Rights Tribunal of Ontario (HRTO) if the complaint is related to one of the grounds of discrimination listed in the *Human Rights Code*. Examples of discrimination include being treated unfairly because of your religious beliefs, race, age, disability, sexual orientation, or ethnic background.
- Generally, you must file your human rights application within one (1) year from when the discrimination happened to you. For more information, visit www.sjto.gov.on.ca/hrto/application-and-hearing-process

8) Other Options

- If your complaint is about how your records or private information is being kept or used by a LHIN or any 'health care custodian', you can

complaint to the **Office of the Information and Privacy Commissioner** here: www.ipc.on.ca/privacy-individuals/filing-a-privacy-complaint

- If your rights under the *Bill of Rights* are not being respected, it may be possible to sue in **small claims court** for breach of the service contract.
- Before receiving attendant services, you will have signed a service contract with your agency. This service contract outlined the services offered by the agency and the conditions under which these services are continued or stopped. The service provider must make sure that the rights in the *Bill of Rights* are fully protected, whether it says so in the contract or not.

Resources

If you require additional assistance, you can contact ARCH. The Human Rights Legal Support Centre and the Centre for Independent Living Toronto (CILT) may also be valuable resources for you.

ARCH Disability Law Centre

Tel: 416-482-8255

TTY: 416-482-1254

Toll Free: 866-482-2724

TTY Toll Free: 866-482-2728

Email: archintake@lao.on.ca

Website: www.archdisabilitylaw.ca

Human Rights Legal Support Centre

Tel: (416) 597-4900

Toll Free: 1-866-625-5179

TTY: (416) 597-4903

TTY Toll Free: 1-866 612-8627

Website: www.hrlsc.on.ca

Centre for Independent Living Toronto

Tel: 416-599-2458

TTY: (416) 599-5077

Fax: (416) 599-3555

E-mail: cilt@cilt.ca

Website: www.cilt.ca

Notes: