

# The Ministère de l'Emploi et de la Solidarité sociale

The Ministère de l'Emploi et de la Solidarité sociale is responsible for:

- promoting employment, developing the labour force and improving labour market operations;
- providing financial support to economically disadvantaged persons and fighting poverty and social exclusion.

The department provides employment services and makes financial assistance available through its province-wide network of 154 local employment centres (CLEs). It is also mandated to oversee the *Québec Parental Insurance Plan*, which came into force on January 1, 2006.

## MULTIPLE AVENUES OF REDRESS FOR CITIZENS

The decisions made at the Ministère de l'Emploi et de la Solidarité sociale comply with regulatory standards and criteria. Depending on the problem, there are a number of recourses available to a citizen who feels prejudiced. He can begin by contacting the department's complaints office (Bureau des renseignements et plaintes). He can also request a review of a decision, and if necessary, appeal to the Administrative Tribunal of Québec. He can also simultaneously call upon the Québec Ombudsman for help in settling a dispute.

## EMPLOYMENT

The labour market has improved substantially over the past decade, so much so that the unemployment rate is now at its lowest level since thirty years. The employment rate among the active population, moreover, reached a historical peak in 2006. Full-time employment also increased at a faster clip than did part-time employment.

The working population in Québec continues to grow, and consisted of 4,143,700 people in March 2007, another historical growth pinnacle. In March 2007, the unemployment rate was at 7.6%, a 0.2% drop from the previous month. Since employment figures began rising in May 2006, a total of 97,400 new jobs were created. The labour market is dynamic. Today, there are 210,000 more jobs in Québec — and 54,500 fewer unemployed workers — than there were in April 2003.

The Ministère de l'Emploi et de la Solidarité sociale nonetheless continues to be concerned by the challenges represented by an aging population, a high rate of social assistance and low business productivity, particularly as regards a balanced labour market and sound public finances. Its objectives are to prevent labour shortages, reduce unemployment and underemployment, while battling poverty and social exclusion.

### Complaints Reviewed by the Québec Ombudsman

Employment	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	30	31	29	2

\* Excluding complaints whose processing was interrupted or which were referred

### TYPE OF COMPLAINTS

In 2006-2007, the Québec Ombudsman received a mere two substantiated complaints regarding the services delivered by Emploi-Québec. In both instances, citizens denounced the delays before a decision was rendered. The complaints were filed during the holiday period, and by the time the Québec Ombudsman got involved, the matter had been settled.

### FINANCIAL ASSISTANCE

### UNIFIED MANAGEMENT OF SERVICES AND THE SINGLE-WINDOW APPROACH

Since April 2006, the department has consisted of two agencies: Emploi-Québec and the Centre de recouvrement. Income security was merged with Emploi-Québec, and the latter currently continues to provide public employment services while also managing social assistance programs, which have been renamed financial assistance programs.

According to the department, the implementation of unified services management and a single-window approach to delivering benefits in 154 local employment centres will enable it to better use the resources available to it. One of the objectives of this restructuring exercise was to allow recipients of last-resort financial assistance to more easily integrate the labour market. While it is still too early to assess the effect of this new structure on citizen services, the Québec Ombudsman is monitoring the situation with interest.

## A MODIFIED PROFILE OF LAST-RESORT FINANCIAL ASSISTANCE RECIPIENTS

Over the past ten years, there has been a 7.2% decrease in the number of recipients of last-resort financial assistance. Their number now stands at a little over 500,000, including 381,130 adults and 124,615 children. According to statistics over the same period, the profile of recipients has changed, with more of them presenting a severely limited capacity for employment (either physical or mental). In March 2006, the department established their number at 128,295, which equals 33.5% of adults benefiting from last-resort financial assistance. This figure was at 19.8% in March 1996. Nearly 6,000 of these recipients are represented by the Public Curator.

The department's clientele is aging, with 48.9% of recipients aged 45 years or more at March 2006, compared to 33.4% in 1996. Furthermore, recipients are enjoying assistance for longer periods. Hence, 53.7% of adult recipients in 2006 had been receiving assistance for ten years or more, compared to 33.9% in 1996. The percentage of recipients living alone rose from 54.9% to 66.6% in the last ten years.

A study<sup>1</sup> conducted by the department in 2006 illustrated that even recipients with no limitations to employment faced obstacles in the labour market. There is currently a high percentage of adult recipients who find themselves in particular circumstances where finding employment will potentially be more difficult.

The authors of the study specify that the existence of one or more of the following factors increases the difficulties recipients will have entering or re-entering the labour market:

- lengthy period as an employment assistance recipient (four years or more);
- lengthy absence from the labour market (two consecutive years receiving assistance);
- limited education (dropped out before the second to last year of secondary school);
- age (45 years or older);
- single parent;
- temporary health problems;
- dependent child of less than five years;
- recently released from a health establishment or detention centre.

1/ Ministère de l'Emploi et de la Solidarité sociale, Bulletin d'information de la Direction générale des politiques, Vol. 1, n° 2, February 2006, *Fenêtre sur la recherche et l'évaluation*.

In this regard, the *Individual and Family Assistance Act*, which came into effect in January 2007, includes the creation of a Social Assistance and Support Program to better prepare the more destitute recipients for the reality of having a job.

### Complaints Reviewed by the Québec Ombudsman

Solidarité sociale	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	500	505	453	52

\* Excluding complaints whose processing was interrupted or which were referred

### TYPE OF COMPLAINTS

Many of the complaints received from citizens involved eligibility to financial assistance problems or the too-small amounts paid by the department. Citizens also denounced the limited access to various department training measures and the limited funds paid for such participation. Moreover, the department's collection activities upset many, as repeatedly attested to by citizens.

### VULNERABLE PERSONS

For several years now, the Québec Ombudsman has been drawing the department's attention to situations calling for a more flexible approach, particularly as regards vulnerable persons. Whereas the department is open to such comments, adapting the processing of varied requests to the specific characteristics of its clientele is a daunting task.

In December 2002, the department supported the recommendations in this regard included in the Québec Ombudsman's annual report, and asked its staff to use all available work tools and seek out a wider range of solutions to promote the social and economic independence of the persons it assisted. It notably asked employees to be open-minded and increasingly flexible.

Despite these efforts, the Québec Ombudsman noted that nothing had changed in 2006-2007. Discussions are still underway with the department at this time, primarily to ensure that persons in distress are not prevented from receiving the support to which they are entitled. In many of these instances, the citizens involved were severely restricted in terms

of complying with applicable standards, mostly due to health reasons. The department, in such cases, decreased or eliminated the financial assistance they had previously received. When the department decreases, cuts or garnishes the income of such citizens, already in a precarious situation, there is a risk that they will:

- lose their lodgings;
- suffer from malnutrition;
- cease taking their medication;
- suffer from a deteriorated health condition;
- be increasingly isolated.

### **A major depression at the root of the problem**

A citizen notified the Québec Ombudsman that the Centre de recouvrement was garnishing 30% of her salary because she had not responded to department notices concerning a repayment of \$2,000. She claimed to have no knowledge of why this amount was being asked of her. The citizen was in a precarious situation, having recently lost her cleaning job. She could no longer pay her rent, was not eating and had numerous other debts to pay. After its investigation, the Québec Ombudsman successfully showed that when the citizen received the amounts to which she was not entitled, she was suffering from a major depression and unable to act rationally, which explained her inability to appropriately respond to the department's notice. Her mental health condition had hence caused the deterioration of her personal circumstances. The department accepted to strike the \$2,000 debt.

### **The right to a second chance**

In 1996, a man suffering from paranoid schizophrenia had his benefits cancelled and was sent a claim of \$14,000 for undeclared work income. Subsequent to the cancellation of his social assistance, he began cutting corners with regard to his medication, neglected to pay his rent, and was finally evicted by his lodgings' owner. Homeless, the man began sleeping in shelters. Having been hospitalized since June 2004 in a psychiatric ward following a suicide attempt, he was scheduled to be released in the summer of 2006. His family turned to the Québec Ombudsman for help in having his debt to the department struck off, so he could have a fighting change of integrating society upon his release from the hospital. The department agreed to take his circumstances into consideration and cancelled its claim.

### A circle of violence

A young mother of 24 had a debt of around \$5,500 for undeclared work income, which the department was repaying by deducting \$112 from her monthly benefits. She contacted the Québec Ombudsman, explaining that she had filed a false declaration out of fear of her ex-spouse, an alcoholic and drug addict who had been incarcerated numerous times and was not supporting his family. In November 2005, the citizen had lodged a complaint against him after he issued death threats. Subsequent to its review of the file, the Québec Ombudsman was able to establish that at the time she neglected to meet her obligations, the young woman's psychological state was such that she was caught in a circle of violence. The debt was then cancelled by the department's Bureau de révision.

### A citizen becomes increasingly distressed as problems pile up

The department garnished 30% of a citizen's salary when she failed to repay a \$10,000 debt. Several years earlier, she had neglected to declare certain work income because she had used it to pay off her son's drug debts. The young man in question committed suicide in 1997, increasing the citizen's physical and psychological distress. These happenings were followed by a bout with cancer and several additional episodes of depression. Shortly after contacting the Québec Ombudsman for help, the citizen lost her job. As a result the Québec Ombudsman was successful in convincing the department to strike off the interest amount of \$7,500 and agree to a repayment of the remaining balance by means of \$20 per month.

## THE INDIVIDUAL AND FAMILY ASSISTANCE DRAFT REGULATION

The *Individual and Family Assistance draft regulation* was published on June 21, 2006. This draft regulation defines the rules governing the introduction of the act of the same name, adopted on June 17, 2005 and designed to slowly replace the *Regulation respecting income support*.

The draft regulation specified rules for the implementation of the following programs:

- social assistance program;
- social solidarity program;
- alternative youth program;
- specific programs.

In a September 14, 2006 letter to the Minister, the Ombudsperson emphasized the project's benefits, particularly with regard to the higher exclusion for certain property and assets, for example the increase of the applicable exemption for a vehicle from \$5,000 to \$10,000.

She made various other recommendations regarding the draft regulation, with the aim of ensuring that everyone in need of last-resort assistance be treated fairly and equitably.

Five recommendations were put forth:

### 1. A CHANGE IN THE DEFINITION OF SHARED CUSTODY

The draft regulation included a provision whereby a parent was considered to have custody if a child was in his or her care at least 40% of the time. This definition was in line with that used in the model for determining child support payments. The Ombudsperson questioned the impact of this increased percentage on a parent's eligibility for a supplement for limited capacity for employment. More specifically, she was concerned about the ability of the parents involved to meet the needs of their children while they were in their care.

The Ombudsperson asked that the old definition, more flexible, be retained.

### 2. FAIR TREATMENT IN DETERMINING ELIGIBILITY FOR ASSISTANCE

When the Individual and Family Assistance Regulation came into force this past June, the eligibility evaluation for households that included an adult with a severely limited capacity for employment was abolished. This show of flexibility deserves recognition.

Under the provisions of the Social assistance program, a single adult with more than \$852 in assets is considered ineligible on the basis of having excess assets. This amount is \$1,128 for a family. These amounts were established in 1996, and have never been changed.

Under the draft regulation, however, an adult may have assets of up to \$2,500 (\$5,000 for a family) and still be eligible for the Social solidarity program.

This difference in how various persons, all of them requiring last-resort assistance, are treated should be examined. The gap between \$852 and \$2,500 is disproportionate, particularly if the true financial needs of persons living alone are taken into account. The Ombudsperson recommended that the rule applicable to single persons be reviewed so as to better reflect their needs.

### 3. INDEXING OF SOCIAL ASSISTANCE BENEFITS

Such indexing is introduced to counter increases in the cost of living. These measures have an impact on everyone involved: the sick, those participating in a specific measure, and those who hold or are looking for a job. While the introduction of new support and assistance programs will decidedly allow for better supporting the most destitute in their efforts to secure a degree of social and professional integration, inflation has a destabilizing effect on low-income individuals in every aspect of their daily lives.

The Ombudsperson therefore recommended that social assistance benefits, like social solidarity allowances, be indexed. Aware that comprehensive indexation is costly, she nonetheless felt that this measure constituted a minimal guarantee for ensuring an adequate lifestyle to all recipients.

### 4. REVIEW OF THE \$224 AMOUNT WITHHELD EACH MONTH

Once the amount of \$224 is withheld from the basic financial assistance amount of \$548 per month, recipients to whom this scenario applies are left with \$324 to meet their needs. Aware that this amount, designed to discourage fraud, is only withheld in cases where a citizen has made more than one false declaration, the Ombudsperson nonetheless felt that the difference between this amount and the basic financial assistance benefit automatically left some recipients in dire straits. She proceeded to recommend that the amount of \$224 be revised with due consideration given the range of the financial assistance in force.

### 5. A \$200 INCREASE IN THE EXEMPTION AMOUNT FOR SUPPORT PAYMENTS FOR FAMILIES WITH ONE DEPENDENT CHILD

In 1998, the government established a \$100 exemption applicable to support payments for families with custody of one dependent child aged 5 years or less. This exemption was extended in January 2006 to cover all families with a dependent child. In the Ombudsperson's opinion, this increase is worthy of note, as providing children with the possibility of enjoying a decent lifestyle will have long-term social benefits.

This explains why the Ombudsperson revisited this issue, despite the fact that it has been included in the Québec Ombudsman's recommendations for over ten years. In her 2004 brief regarding Bill 57, the Ombudsperson suggested increasing the allowed exemption to the same level as that granted workers, i.e., \$200 a month for an adult and \$300 a month for a family.



This proposal represented an overall expense of around \$13 million, but was easy to implement from an administrative perspective. Given the cost involved, the Ombudsperson recommended a phased approach that would have had the exemption amount progressively increasing until it reached the level granted workers.

While these recommendations were not retained, the Ombudsperson would like to see the department continue its analysis of this issue.

## PARENTAL INSURANCE

In June 2005, the Québec National Assembly adopted Bill 108, *An Act to amend the Act respecting parental insurance*, which announced the introduction of the *Québec Parental Insurance Plan* on January 1, 2006. This legislation was passed following an agreement between the governments of Canada and Québec in March 2005.

The Plan includes the payment of benefits to all eligible salaried and self-employed workers who take maternity leave, parental leave or adoption leave. The plan focuses on income replacement, and potential recipients however need have work income to be eligible. Services to citizens are delivered by two client services centres (CCCs, or Centres de Communications avec la clientèle) located in Rouyn-Noranda and Québec City.

To provide a more comprehensive overview of the primary problems and interventions carried out since the Plan's introduction, the Québec Ombudsman's review covers the period from January 1, 2006 to February 28, 2007.

### Complaints Reviewed by the Québec Ombudsman

Québec Parental Insurance Plan	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	43	43	19	24

\* Excluding complaints whose processing was interrupted or which were referred

## TYPE OF COMPLAINTS

Between January 2006 and February 2007, the Québec Ombudsman investigated 81 complaints involving the Québec Parental Plan. 67% of these had been filed within the first four months of the plan being introduced, and concerned problems related to the plan's administration. Various malfunctions were the direct result of computer system failures and a lack of staff. During this period, citizens were mainly dissatisfied with the problems they were having receiving telephone or online services and the lengthy delays in resolving files.

The May 2006 hiring of new agents greatly improved matters, and the number of complaints dropped significantly. Subsequent complaints increasingly focused on the fact that certain situations were not adequately covered by the rules, particularly with regard to the calculation of average weekly income and plan eligibility.

## DIFFICULTIES LINKED TO THE NEW PROGRAM'S INTRODUCTION

### **A mistake that left a citizen in a precarious financial situation**

A citizen took advantage to take paternal leave from February 12 to March 18, 2006. He proceeded to take the five weeks to which he was entitled, and still news from the Ministère de l'Emploi et de la Solidarité sociale. In mid-March, the department notified him of a computer-generated error in his file, claiming the necessary corrections would be done immediately. By March 20, he still had no news. As a construction worker, he was entitled to employment insurance benefits, given that he had completed his paternal leave. However, he was not able to actually receive his employment insurance benefits until his parental insurance file was settled. He quickly became discouraged, and the couple were forced to borrow on their line of credit to pay for essentials. Once the Québec Ombudsman became involved, the matter was resolved the very same day.

### **Nearly two months to process a request**

A father enrolled in the plan on January 13, 2006. On March 8, his request had not yet been processed, so he asked the Québec Ombudsman to intervene. In the interim, the couple were obliged to sell their car to pay bills and meet their needs. Subsequent to the Québec Ombudsman's action and in light of the couple's extremely precarious situation, the issue was dubbed an emergency and handled immediately.

## CIRCUMSTANCES NOT PROVIDED FOR UNDER THE REGULATION

### CALCULATIONS LEADING TO MORE EQUITABLE BENEFITS

The average weekly income of a woman who held another job after having taken a precautionary cessation from work was determined on the basis of the last 26 weeks prior to her last pay cheque from her former job. The longer the latter work period, the greater the risk that the worker's benefit would be calculated according to a single income, namely, the latest one. This meant that she was not benefiting from her total income for the entire year, and led to a significantly reduced benefit amount. Such a situation had not been provided for at the time the regulation was drafted.

The Ombudsperson wrote to the Deputy Minister to ask that the average weekly income be calculated on the basis of the period prior to the citizen's precautionary cessation from work. This ensured that all work income would be taken into account, thereby allowing the citizen to enjoy a higher and more equitable parental benefit.

In May 2006, two provisions were added to the regulation governing the application of parental insurance to provide a concrete solution for this scenario. The changes introduced were retroactive to January 1, 2006.

### A MORE BOUNTIFUL, FLEXIBLE AND ACCESSIBLE PLAN?

For some women with a risky pregnancy, precautionary cessation from work is not an option. Unable to work during this period, they rely on the income insurance plan included in their employment contract. According to legislation, however, income replacement amounts paid by an employer are considered insurable earnings, and constitute the basis for calculating parental insurance benefits.

A woman who earns \$500 per week and whose employment contract includes payments equal to 66% of her salary would receive a weekly insurance income of \$330 during her pregnancy. Parental benefits are set at 70% at the start of the period and 55% thereafter. New mothers are entitled to an amount of \$231 a week, which drops to \$181 during the parental leave.

The Québec Ombudsman felt that this approach was not in harmony with the characteristics of the new *Québec Parental Insurance Plan* as described at the time of its introduction, where the focus was on a more bountiful, flexible and accessible plan.

The department has created a committee to review the matter, and the Québec Ombudsman is awaiting their response.

### **Lots of hassles for new parents**

The period allowed for maternity benefits is 18 weeks. Payments begin no earlier than 16 weeks before childbirth and never extend beyond the 18th week following childbirth. If a mother files her request too late, she loses the payment for the prior period. The department does, however, grant a grace period of three weeks, as provided for under the law.

In addition to this three-week grace period, the legislation mentions that benefits can be paid in full if the applicant can show that she was unable to act within the prescribed time period. A new mother, supported by the Québec Ombudsman, filed such a request.

On June 11, 2006, the citizen gave birth prematurely, notably three weeks early. The child was delivered by Caesarian, and mother and child stayed in the hospital until June 14. The citizen's spouse contacted the department via phone to enrol his wife in the Parental Insurance Plan, and was told he would be sent the necessary forms. While he waited, the mother was once again hospitalized, from July 10 to 14, for a pulmonary embolism.

The signed forms were finally received by the Rouyn-Noranda service centre on July 23. After reviewing the file, the team leader agreed to retroactively authorize the request to June 11, and the citizen received her first cheque for four weeks of benefits. The team leader's supervisor, however, did not concur with his subordinate's decision, being of the opinion that the citizen should have been able to personally sign the forms. Now in an impasse, the citizen stopped receiving payments. The department went one step further, asking her to repay the amounts already received, as this would allow it to start the system up again.

The Québec Ombudsman is of the opinion that the citizen's health condition constituted sufficient grounds to explain the three-week delay. In its opinion, the department should have been more flexible, particularly given the various administrative hassles to which the citizen was subjected, including the cessation of payments and the request for repayment of received amounts, and approved payments retroactive to the date of birth.

The Québec Ombudsman contacted the department, which agreed to retroactive payments to June 11. The citizen subsequently received retroactive amounts totalling around \$1,350.