

Housing Services Act Analysis Project
Notes for Meeting 1
Part V - RGI Assistance and Special Needs Housing

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Definitions, Application of Part V, Service Level Standards		
Definitions HSA s. 38 O. Reg. 367/11 s. 17	The lead agency language has been removed. "Providers" are designated as special needs administrators under Schedule 3 if the Regulation. The SHRA Regulation designated the "project." The language shift from "project" to "provider" means that the special needs administrator designation captures the modified units without supports in all projects operated by a provider, even if a particular building does not have units with support services.	The definition of special needs housing encompasses modified units without supports operated by special needs housing administrators. The <i>Good Government Act</i> addressed this issue by amending the SHRA to stipulate that Service Managers, not special needs housing administrators were responsible for the waiting lists for modified units without supports. This "fix" was not carried forward into the HSA Housing providers who are special needs administrators are responsible for the waiting lists for their modified units without supports unless they enter into an agreement with the service manager to use the centralized waiting list.
Application of Part V HSA s. 39 O. Reg. 367/11 s. 18	No material change	
Service Level Standards HSA s. 40 – 41 O. Reg. 367/11 s. 19 – 22 O. Reg. 370/11 & Schedule 1 & 2	Household Income Limits and High Need Income Limits will be updated effective January 1, 2012.	Service Managers should review Schedule 1 & 2 of O. Reg. 370/11 to assess the impact of any changes to their particular Household Income Limits and High Need Income Limits.

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Rent-Geared-to-Income Assistance		
Definitions HSA s. 42	No material change	
Rent-Geared-to-Income Assistance - Eligibility Rules HSA s. 42 O. Reg. 367/11 s. 23 - 41	<p>Provincial eligibility is the same.</p> <p>S. 26 1 c. – Amounts owed by household for damage</p> <ul style="list-style-type: none"> • A household is ineligible for RGI if a member of the household owes...an amount for damage caused by a current member of the household (The word current is new.) <p>S. 28 (1) - Notification of changes – The SHRA limited ineligibility to failing to report changes which would have resulted in an RGI increase or change in the size of unit for which the household is eligible. The HSA does not include this limitation.</p> <p>S. 28 (3) – Cessation of eligibility – failure to notify of changes The SHRA established a 10-day reporting deadline unless the Service Manager set a longer one. Under the HSA, notification of change must be given to the Service Manager within 30 days of the change or within such longer period after the change as the Service Manager may establish.</p>	<p>If a prior RGI tenancy included household members who are not part of the current RGI application, the Service Manager will need a process to determine whether the amounts owed for the prior RGI tenancy are attributable to current household members.</p> <p>Service Managers may wish to rely on their authority in 28(7) to preserve household eligibility where there are “extenuating circumstances” and create a local rule that failing to report a change that if correctly reported would not have affected the RGI amount or unit size eligibility does not result in a loss of eligibility.</p> <p>If a Service Manager relied on the SHRA 10 day period or had established a reporting time period of less than 30 days, a local rule will have to be created/revised to be at least 30 days.</p>

	<p>S. 29 – Cessation of eligibility – failure to provide information requested by the Service Manager</p> <p>The SHRA required a 10-day response deadline unless the Service Manager set a longer one. Under the HSA there is no minimum time frame for households to respond to a Service Manager’s request for information.</p> <p>S. 31 – Failure to Obtain Income Under the SHRA, pursuit of income was mandatory. Under the HSA, the Service Manager MAY require a household to pursue income.</p> <p>Under the SHRA, seniors aged 65 or older were required to pursue Ontario or Canada government pension income. Under the HSA, seniors cannot be required to pursue CPP.</p> <p>No change to divestment of property, maximum household income rules</p> <p>S. 35 – Local rule – maximum household assets S. 35 (5) 1 and S. 35 (6)</p> <ul style="list-style-type: none"> • one non-business vehicle per member of the household (SHRA language did not set a limit). 	<p>There is an implied, but not an explicit authority for Service Managers to determine the response deadline. Service Managers will need to give direction to housing providers who administer RGI to enable them to appropriately determine when a household becomes ineligible as a result of failing to provide information.</p> <p>Service Managers need to decide if and under what circumstances pursuit of income will be required.</p> <p>Service Managers may wish to advise housing providers that RGI recipients cannot be required to pursue CPP.</p>
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	<p>The list of excluded assets no longer includes:</p> <ul style="list-style-type: none"> • Student loans and grants • Helpline Reconciliation Model Agreement • Multi-Provincial/Territorial Assistance Program Agreement • Grandview Agreement • Ontario Hepatitis C Assistance Plan • 1986-1990 Hepatitis C Settlement Agreement • Government of Alberta as compensation for sterilization • Walkerton Compensation Plan • Extraordinary Assistance Plan (Canada) <p>The following assets have been added to the list of exclusions:</p> <ul style="list-style-type: none"> • S. 35 (5) 8– all RESP funds • S. 13 – the value of accounts of a household member in conjunction with an initiative a service manager or an entity approved by the service manager commits to contribute funds towards a member’s savings goals (Asset Building initiatives) <p>S. 36 – Local Rule – certain convictions Under the SHRA a household convicted of an offence under section 55 of the Act or section 85 of the former Act or a crime under the <i>Criminal Code</i> (Canada) related to RGI assistance was not eligible for RGI for 2 years. Under the HSA a service manager MAY make a rule to that effect.</p>	<p>Service Managers with asset limits may wish to update their local policies to ensure that these assets continue to be excluded.</p> <p>Service Managers with asset limits will need to update their local policies to ensure that these assets are excluded.</p> <p>Service Managers may wish to set a local rule to regarding ineligibility for up to two years following a conviction related to RGI assistance.</p>
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	<p>S. 37 - Local Rule – maximum absence from unit Under the SHRA Service Managers could set a local rule making housing ineligible if they were absent from the RGI unit for a defined period that could not be less than 60 consecutive days. The HSA rule is similar but in addition to the 60 consecutive day consideration, the Service Manager rule can also consider total absences within the year (not less than 90 days)</p> <p>S. 38 – Local rule – ceasing to meet occupancy standards The SHRA required that over-housed households comply with prescribed transfer rules in order to maintain their RGI eligibility. Under the HSA there are no over housed rules unless the Service Manager creates them.</p>	<p>Service Managers may revise or create a local eligibility rule to address total period of absence from the unit over the course of a year. The local rule may provide for a maximum number of consecutive days and/or a maximum number of days absent during the year, provided that:</p> <ul style="list-style-type: none"> • the maximum number of consecutive days must be at least 60 • the maximum number of days within a year must be at least 90 • members may be absent for medical reasons without loss of eligibility <p>Service Manager may make a local eligibility rule requiring over-housed households to move to a smaller unit. If the Service Manager makes a local rule, the following applies - HSA S. 38 (1 – 3):</p> <ul style="list-style-type: none"> • Households must be notified that they are over-housed • Households can not be required to move until at least 12 months after notification • As long as the household is following the process/local rule, they remain eligible for RGI assistance <p>If the Service Manager does not make a local rule, over-housed households should be removed from the centralized waiting list. Over-housed households currently on the centralized list should be removed or inactivated if they have been over-housed for less than 12 months.</p>
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	<p>S. 39 – Local rule – refusal of offers Under the SHRA, applicants ceased to qualify if they refused 3 offers of RGI housing. Under the HSA, there is no limit on the number of offers unless the Service Manager establishes one.</p> <p>Under the SHRA there were a number of eligibility requirements that the Service Manager could override if there were "extenuating circumstances" (s. 12(1.1) of O.Reg 298/01). Although most of this has been carried forward in the HSA either explicitly or potentially as part of a local rule, there are a couple omissions. There are no provisions for extenuating circumstances to override eligibility requirements re: age (16+), status in Canada, ability to live independently, or divestment of property.</p>	<p>The Service Manager must make a local eligibility rule to enforce the previous provincial rule or may make a different rule. Should the service manager make a local rule, the following applies - HSA S. 39 (1 – 3):</p> <ul style="list-style-type: none"> • Local rule may provide for circumstances in which a refusal is not counted • The number of offers must be at least three. <p>No action required</p>
<p>Occupancy standards HSA s. 43 O. Reg. 367/11 s. 42</p>	<p>Provincial occupancy standards no longer exist. The HSA mandated criteria for local Occupancy Standards are consistent with the SHRA comparators with the following exception:</p> <ul style="list-style-type: none"> • S. 42 (2) Attendance at a recognized education institution. The SHRA read that a child must be attending ‘full time’. 	<p>If they have not already done so, Service Managers must establish occupancy standards.</p> <p>All local rules regarding occupancy standards must include consideration for households who require a larger unit to due a</p>

	<p>The HSA no longer refers to ‘full time’. (<i>“full time” is referenced in the ‘new’ 298/01 as part of the income calculation but this is not consistent with the occupancy standard definition.</i>)</p>	<p>disability or medical condition; as well as children of the household attending a recognized educational institution.</p> <p>Service managers that were deemed to have adopted provincial occupancy standards as local standards under SHRA may want to consult with legal counsel to determine if these continue to apply under HSA.</p>
<p>Application for Assistance HSA s. 44 O. Reg. 367/11 s. 43</p>	<p>Under the SHRA, applicants were required to sign consents as part of the application. This requirement does not exist in the HSA.</p>	
<p>Determination of Eligibility HSA s. 45 O. Reg. 367/11 s. 44</p>	<p>S. 44 – Determination of Eligibility Administrative requirements have been simplified. The 7 day and 30 day application notice requirements have been eliminated. The HSA does not specify time frames. Instead, the Service Manager must notify the household ‘without delay’</p> <p>Notification to SPP application remains unchanged (14 days to assess SPP and RGI eligibility.)</p>	<p>Service Managers may wish to review and streamline their current eligibility assessment documentation practices.</p>
<p>Determination of size and type of unit HSA s. 46</p>	<p>No material change</p>	
<p>System for selecting waiting households HSA s. 47 O. Reg. 367/11 s. 46-51</p>	<p>S. 47 – System for selecting waiting households</p> <p>No changes to the rules governing special priority.</p> <p>No prescribed requirements to determine whether a vacancy is RGI or market. (No HSA equivalent to SHRA reg. 339 s. 14)</p>	<p>Service Managers must set a local rule that determines whether a vacancy is RGI or market.</p>

	<p>S. 46 (1) s. 4 – centralized waiting list Under the SHRA a household was removed from the wait list upon acceptance of any RGI unit.</p> <p>The HSA specifies that a household will be removed from the list upon acceptance of an RGI unit within the service area.</p> <p>S. 47 – System requirements – selection of RGI households for vacant units</p> <p>HSA sets out two wait list system options</p> <ol style="list-style-type: none"> 1. Select the highest priority households among the relevant households until the unit is accepted 2. Release information about the vacancy to all relevant households (expressed interest in the building and meet the occupancy standards), offer the highest priority households that expresses interest within the specified time period (permits Choice Based Letting) <p>Lower priority may be offered if all other higher priority applicants have refused the offer</p> <p>S. 47 (7) New to HSA: SM may create an RGI exchange arrangement allowing households receiving RGI in a different service area to move between service areas if</p> <ul style="list-style-type: none"> • Both Service Managers agree to the exchange, and 	<p>S. 46 – 51 – System requirements Service Manager must set the system for selecting households from the centralized waiting list. Considerations:</p> <ul style="list-style-type: none"> • Create and document a system that meets the required rules/standards • Determine household eligibility for the wait list • Determine process for transfers for current RGI households and RGI households on the wait list • Regarding current RGI households determine requirements for the application and required documentation as per HSA • Determine local rules for: <ul style="list-style-type: none"> - when to remove the applicant from the wait list - applicant ceases to be eligible - applicant requests to be removed - applicant accepts an RGI unit (unless it's temporary or transitional) • Review eligibility every 24 months at least • May allow temporary removal at applicant request • Must maintain current waiting list <p>Service Managers may wish to give consideration to an RGI exchange arrangement with another Service Manager</p>
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	<ul style="list-style-type: none"> • The household is eligible for RGI <p>S. 48 - System requirements – selection of already accommodated households Under the SHRA, allocation of RGI assistance to in-situ market tenants was restricted. The HSA requires Service Managers to make rules governing in-situ. The rules must be provided that in-situ tenants eligibility for priority rank ahead those without priority.</p> <p>Under the SHRA, housing providers were entitled to refuse to offer an applicant a unit under prescribed circumstances. The HSA requires Service Managers to set local rules setting out the reasons a housing provider can refuse to offer a unit (<i>with the exception of the unit being unsuitable...same reasons permitted as are in the SHRA</i>). The local rules must also require the housing provider to notify the household of their right to a review and to conduct the review if requested.</p> <p>S. 49 –Alternative Housing Provider Priority rules do not apply to alternative providers if the alternative provider agrees.</p>	<p>Service Managers must create local in-situ RGI rules that comply with the special priority rules and are consistent with the Service Manager’s priority ranking rules.</p> <p>Essentially the Service Manager must adopt the SHRA refusal to offer rules as local waiting list system rules. (<i>Note: the SHRA allowed a determination that the unit was unsuitable for the household as a reason for refusal. That is not the case in the HSA</i>)</p>
<p>Determination of Priority HSA s. 48 O. Reg. 367/11 s. 52-58</p>	<p>S. 52 – Determination of priority</p> <ul style="list-style-type: none"> • SPP requirements are essentially the same as in the SHRA • Local priority flexibility is essentially the same as in the SHRA • Non-priority applicants are placed on the list with consideration of how long the applicant has been on the list and any other local ranking rules. • A request for transfer is given the date 	<p>Service Managers may create local priority rules for the determination of priority as long as they do not contravene the provincial priority rules.</p>

	the request for transfer was received	
Use of wait list system by housing provider HSA s. 49	No material change	
RGI Calculation HSA s. 50-51 O. Reg. 379/11 s. 1 - 13 SHRA O. Reg 298/01 (revised January 1, 2012)	Generally no material change from the SHRA. HSA S. 51 – Deferral or forgiveness of RGI rent <ul style="list-style-type: none"> • The word “forgiveness” is new. Previously only said deferral 	Service Managers may set a local rule regarding the deferral or forgiveness of RGI rent
Review of Continued Eligibility HSA s. 52 O.Reg. 367/11 s. 59 - 60	s. 59 – Review of continued eligibility For current RGI recipients, O.Reg 367/11 sets out transitional rules: <ul style="list-style-type: none"> • If, as of January 1, 2012, a household has already had an annual RGI eligibility review under the SHRA since their last anniversary date, then the first eligibility review under the HSA does not need to be conducted until sometime during the 12 months after their next anniversary date. • If, as of January 1, 2012, a household’s most recent annual RGI eligibility review was conducted prior to their last anniversary date, then the first eligibility review under the HSA must occur before their next anniversary date. Subsequently, eligibility reviews can occur any time during the 12 months after each anniversary date. • A review of continued eligibility must be completed once in every 12-month period after the household began to receive RGI assistance s. 60 - This section restricts Service Mangers’ ability to require documents under certain circumstances (<i>e.g. if satisfied that the person is</i>	

	<i>unable to provide the required document)</i>	
Notice of Certain Decisions HSA s. 53 O.Reg. 367/11 s. 61	The requirement to provide an Opportunity to Comment has been removed – no other change.	Opportunity to comment is no longer mandatory. Service Managers may want to review/revise their current processes.
Information, etc., made available to the public HSA s.54 O.Reg. 367/11 s. 62 - 63	Similar to the requirement in the SHRA, under the HSA Service Managers must make information, documents and applications available to the public	Service managers must make information available to the public: <ul style="list-style-type: none"> •Procedures for application for RGI including the information and documentation required •Local eligibility rules •Occupancy standards •System for selecting households •Information on housing projects within the service area where RGI assistance is provided •Information about provincial eligibility rules •Information about provincial priority rules
Fraud and Recovery of Over-payments HSA s.55 & 56 O.Reg. 367/11 s. 64 & 65	No material change	
Eligibility Review Officers HSA s.57 O.Reg. 367/11 s. 66	The HSA removes some redundancies in the prescribed powers of the ERO. However, the omission of the powers in subsections 19(2)(b)(c) - explicit power to "demand" production of information - and 19(10) - explicit power to require information or material from third parties - may be problematic under the HSA (<i>SHRA 159 & Reg. 368/01 s. 19</i>)	
Family Support Workers HSA s.58 O.Reg. 367/11 s. 67	No material change	

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Special Needs Housing		
Special Needs Housing - Eligibility Rules HSA s. 59 O. Reg 367/11 s. 68 - 71	No material change – households continue to be eligible based on need for modification or support service.	Please refer to Section 1a of this table.
Special Needs Housing - Application for special needs housing HSA s. 60 O. Reg. 367/11 s. 72	No change other than the language in the SHRA has changed and is consistent with HSA	Service Manager must review application for special needs housing and ensure the language is consistent with the HSA.
Special Needs Housing - Determination of eligibility HSA s. 61 O. Reg. 367/11 s. 73	<p>S. 73 - Determination of Eligibility</p> <ul style="list-style-type: none"> • Under the SHRA, if an application was deemed incomplete or complete, the administrator was required to notify the household within a specified timeframe • HSA has removed the specific time frames and states the administrator must notify the household ‘without delay’ <p>Administrative requirements have been simplified. The 7 day and 30 day notice requirements have been eliminated.</p> <p>The HSA does not specify time frames. Instead, the Special Needs Housing Administrator must notify the household ‘without delay’</p>	Service Managers may wish to review current processes
Special Needs Housing - System for selecting waiting households HSA s. 62	S. 75 - System requirements – waiting list Special needs housing administrator must have a system for selecting households.	Special Needs Housing Administrator must have a system for selecting households from those waiting for a special needs housing.

O. Reg. 367/11 s. 74 - 77		<p>Considerations:</p> <ul style="list-style-type: none"> • Create and document a system that meets the required rules/standards • Determine eligibility for the wait list • Determine process for internal transfers • Priority rules – the only provincial requirement is SPP • Current special needs households are given RGI immediately upon determination of RGI eligibility by service manager. • Determine local rules for: <ul style="list-style-type: none"> - when to remove the applicant from the wait list - applicant ceases to eligible - applicant requests to be removed - applicant accepts a Special Needs unit • Review eligibility from time to time • Refusals to offer – same as RGI with the addition that the level of support services is significantly different that required. • Must maintain current waiting list
Special Needs Housing - Determination of priority HSA s. 63, 64, Reg. 367/11 s. 78 - 79	No material change	
Special Needs Housing- Review of continued eligibility HSA s. 65 O. Reg. 367/11 s. 80 & 81	Omits SHRA reference to review of eligibility to occupy current unit.	<p>The Service Manager shall not require information or documents that were previously provided and are adequate to determine ongoing eligibility.</p> <p>As with RGI (above) - first review provisions seem to override the Special Needs Housing Administrator’s ability to have set review dates for all households.</p>
Special Needs Housing - Notice of certain decisions	Similar to the RGI section relating to Notice of Certain Decisions	

HSA s. 66, Reg. 367/11 s. 82		
Special Needs Housing - Information, etc., made available to the public HSA s. 67 O. Reg. 367/11 s. 83 - 85	Similar to section labeled “2n” RGI section relating to Information, etc., made available to the public	

Housing Services Act Analysis Project Notes from Meeting #2

Discussion Topics:

1. **Provider Funding including all SHRA providers & LHC**
2. **Housing Provider Rules & Responsibilities**
3. **Enforcement Provisions**

HSA and Ontario Regulation References	What’s Different	Key Considerations/Decision Points for Service Managers
Provider Funding – SHRA Providers		
Definition HSA s. 73 O. Reg. 367/11 s. 90	No material change	
Application of Part HSA s. 74 O. Reg. 369/11 s. 4	No material change There are no longer provisions terminating the application of this part upon termination of the duty to pay subsidy.	The relationship with provincial reform housing providers is essentially indefinite.
Subsidy from service manager HSA s. 78 O. Reg. 369/11	Additional Subsidy provisions have been removed.	There are no restrictions on additional subsidy; it is now more broadly an area of service manager discretion.

	<p>There is no longer a regulatory requirement for housing providers to submit subsidy estimates 90 days before the beginning of their fiscal years. Housing providers, though, are required to provide information as requested by the Service Manager.</p> <p>There is no longer a provision providing for a date at which the duty to pay subsidy ends.</p> <p>The subsidy calculation is worded somewhat differently, but the outcome is the same.</p> <p>The HSA provides for the Minister to prescribe benchmarks by Regulation/notice to providers, but no such prescription has been made. Presumably the use of the phrase “prior year” effectively carries forward the provider’s existing indexed benchmarks.</p> <p>Benchmark change language in 6(4) has been updated to refer to a “different indexed benchmark”. This is an improvement over having to change a benchmark and then inflate to current values.</p> <p>The SHRA provisions related to benchmark changes related to RGI or wait list administration are gone. (104(6)).</p> <p>The SHRA provided for benchmark changes upon agreement by the housing provider and the Minister. The HSA requires consultation with both the service manager and the housing provider.</p>	<p>The funding obligations now appear to be indefinite.</p>
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	<p>The determination of an RGI unit from 339/01 s. 14 has been replaced with an HSA requirement (s. 47 (2)) to create a local rule determining when a unit that becomes vacant should be occupied by an RGI household.</p> <p>Both the SHRA & HSA 9(3) refer to the “average number of the housing provider’s units.” The purpose of “average” vs. actual is not clear.</p> <p>HSA 9(6) omits the SHRA reference to the AIR in determining the housing provider’s surplus. The SHRA permitted the Minister, in consultation with the Service Manager to revise the Market Rent Index under certain conditions.</p> <p>100% RGI subsidy calculation is essentially the same</p>	<p>Service Managers may wish to consider the implications for their practices with respect to funding vacancy loss for RGI units.</p>
<p>Records of housing provider HSA s. 79 O. Reg. 367/11 s.102</p>	<p>No material change</p>	
<p>Annual report from housing provider HSA s. 80 O. Reg. 367/11 s.103</p>	<p>The SHRA restriction on requesting information pertaining to the income of market rent households does not exist in the HSA.</p> <p>The penalty amounts for failing to submit the AIR on time have been increased from .5% of subsidy to 2% of subsidy and from \$1000 to \$5000.</p>	
<p>Other reports, etc., from housing provider HSA s. 81</p>	<p>Service managers now have broader powers with respect to requiring information, reports & documents (e.g. the 90 day subsidy estimate) from housing providers.</p>	<p>The 90 day rule no longer has regulatory force. Service Managers may want to create a local reporting requirement to maintain this.</p>

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Provider Funding - LHC		
Definitions HSA s. 24 O. Reg. 367/11 s. 10	No material change	
General HSA s. 25 – 31 O. Reg. 367/11 s. 11-12	Service managers can establish a rule to require establishment and maintenance of a capital reserve fund for the LHC. The requirement for LHC's to submit a capital plan for its housing projects is new. No change to LHC funding requirements.	
Restriction on Certain Corporate Changes HSA s. 32 – 37 O. Reg. 367/11 s. 13 – 16	Fewer restrictions regarding wind-up or dissolution of the LHC.	
Housing Provider Rules & Responsibilities		
Operating rule for projects HSA s. 75 O. Reg. 367/11 s.91 to 100	No material change	
Prescribed provincial requirements O. Reg. 367/11 s.91	No material change	
Corporate Standing O. Reg. 367/11 s.92	No material change	
Operation as charity or non-profit organization O. Reg. 367/11 s. 93	Minor change in the wording.	
Distribution on winding up, etc. for certain housing providers O. Reg. 367/11 s. 94	The distribution provisions now apply only to non-profit providers. It appears that Co-ops are not covered. This is a problem as the Co-operative Corporations Act dissolution provisions are not consistent with the requirements and they should	

	be.	
Damages that make a unit uninhabitable O. Reg. 367/11 s. 95	No material change.	
Rent-geared-to-income assistance O. Reg. 367/11 s. 96	<p>96 (1) The SHRA reg. stipulated who had to sign the lease and who could occupy the unit. The HSA only requires that a lease be executed.</p> <p>96(2) requires that the household be informed of the market rent, but does not require that the market rent be cited in the RGI lease.</p> <p>HSA reg. 367/11 s. 96 (3) prohibits a housing provider from refusing a tenant who can't pay the Last Month's Rent Deposit as long as the tenant enters into a payment agreement. The corresponding provisions in Reg. 339/01 stipulated that payment defaults were considered rent payable, so the provider could pursue collection under the RTA.</p>	Service Managers can make a local rule on whether or not the market rent is cited on the RGI lease.
Non-profit housing co-operatives, fees and charges O. Reg. 367/11 s. 97	No material change	
Capital reserves O. Reg. 367/11 s. 98	<p>98 (1) & 98(8) A Service Manager can now permit a housing provider with multiple Part VII projects to maintain one consolidated reserve. If the housing provider has projects in multiple service areas, they must maintain a separate reserve corresponding to the projects in each service area.</p> <p>The word "substantial" has been added to qualify repairs as part of the definition of eligible capital repairs (98 (6)).</p>	Service Managers may wish to allow providers with multiple part VII projects to maintain consolidated reserves.
Insurance	No material change	

O. Reg. 367/11 s. 99		
Limits of Local Standards O. Reg. 367/11 s. 100	All the provider rules set out Reg. 339/11 s. 4, 5 (conflict of interest), s. 3, 6 (board of directors & remuneration), s. 8 (property management), s. 21 (leases) will only continue to apply if the service manager has or makes a local rule to that effect. (existing local conflict of interest rules could still apply) Multi-year financial plans are a new area of local standard discretion.	Service Managers should review their operational review templates to ensure that any requirements related to reg. 339/01 are supported by new local rules. Service managers could permit housing providers to pay an honorarium to board members. Service managers may wish to implement new rules regarding multi-year financial plans.
Mandates under former act HSA s. 76	No material change	
Targets for rent-geared-to-income and modified units HSA s. 77 O. Reg. 367/11 s.101	No requirements prescribed und 100(3) regarding targets The requirements regarding notices to providers where the service manager unilaterally changes the target plan have been reduced.	

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Part VI – General Rules for Transferred Housing Programs and Projects		
General duty of service manager HSA s. 68 Rules and criteria for programs and projects O. Reg. 367/11 s.86	No material change	
General duty of housing provider HSA s. 69 Housing provider plans O. Reg. 367/11 s. 87	The Training & Succession plan requirements are new.	
Records HSA s. 70	No material change	

O. Reg. 367/11 s. 88		
Audit or investigation HSA s. 71	No material change	
Notice of certain projects in difficulty HSA s. 72 O. Reg. 367/11 s. 89	The SHRA term “material” has been replaced with “substantial” 72(3) The provider is now entitled to a copy of the PID notice the service manager sends to the Ministry. (formerly the SM could send a different notice of PID status to the provider.)	

HSA and Ontario Regulation References	What’s Different	Key Considerations/Decision Points for Service Managers
Enforcement Provisions		
Audit or investigation HSA s.82	Under the SHRA, notice of the audit could be given “on or before” the date the audit began. Under the HSA, notice must be given “before beginning” the audit.	Service Managers may want to seek legal advice before pursuing a forensic audit without advance notice.
Triggering events HSA s.83	83(3) no longer includes reference to “liquidating the assets” 83(8) “housing provider is unable to fulfill its obligations” no longer includes the words “as they come due” arguably could cover obligations that are not financial in nature. 83(9-11) the problematic SHRA language “having regard to the normal practices of similar housing providers” has been replaced with “in the opinion of the service manager.” 84 NEW requirement to use “reasonable efforts” to assist the provider if the service manager becomes aware of a situation that may result in triggering event 9 (but doesn’t require service	

	manager to spend money to assist).	
Remedies HSA s. 85	85(4) has been improved to more broadly define the powers of the housing provider that the service manager can assume 85(5) NEW remedy to appoint an operational advisor 85(6) new language around “interim” receiverships 85(7) Clearer language around a receiver for the housing provider rather than just the specific housing project.	
Other remedies not limited HSA s.86	No material change	
Multiple remedies allowed HSA s.87	Broader authorities for service managers.	
Waiver of a remedy HSA s.88	No material change	
Remedy must be reasonable HSA s.89	New language but not really a new requirement.	
Notice, opportunity to rectify and make submission HSA s.90	Still have to give notice of triggering events. If the triggering event persists, before implementing a remedy, Service Managers must give the housing provider a notice indicating that a remedy is being considered and a meaningful opportunity to respond. The Service Manager must consider the housing provider’s response BEFORE making a decision. (However, MMAH consent is not required before implementing selected remedies, s. 72(1)) The “exception” criteria now include not having a quorum of directors for 90 days. Court appointed receivership is limited to the “exception” criteria. Providers must have an	

	opportunity to make submissions before the Service Manager decides to seek Court Appointment.	
Discontinuation or suspension of subsidy HSA s.91	Reference to “material” in the triggering event has been removed.	
Exercise of powers, etc., by service manager HSA s.92	<p>The time limit is new (2 year maximum, with annual extensions following notice, unless extended by agreement.)</p> <p>New requirement that property managers appointed under this authority must be knowledgeable. The property management agreement is between the PM and the Service Manager and a copy must be provided to the provider by the Service Manager. The Service Manager can terminate the agreement at any time.</p> <p>NEW (11) The exercise of power is limited to carrying on business, improving governance and/or stabilizing finances.</p> <p>NEW (14) & (15) provides ratification and release for Service Managers exercising this remedy.</p> <p>NEW (18) Service Manager must give report to the housing provider every 3 months (summary of what’s been done in the exercise of the remedy).</p>	
Operational Advisor HSA s.93	<p>NEW Remedy</p> <ul style="list-style-type: none"> - must be knowledgeable - agreement between Service Manager and operational advisor - operational advisor must give a copy of the agreement to the provider - paid for by the provider 	

	<ul style="list-style-type: none"> - purpose to provide WRITTEN recommendations and advice to provider and Service Manager as to how the provider can improve its operations - housing provider must consider the recommendations - limited to 2 years per occurrence unless extended by agreement. - Releases provided 	
Restriction on appointment of receiver, etc. HSA s.94	Interim receivership is limited to the “exception” circumstances in 90(5) Interim receiver can only be in place for 180 days. Receivership is more strictly limited under the HSA than under the SHRA. No power of sale. Requirement to report to the housing every 3 months. SHRA 120(4) provided that Receiver was “deemed to be an agent of the housing provider” No similar language in the HSA.	
Court appointed receiver, etc. HSA s. 96	Terms of the receivership generally determined by the Court. Service Manager must seek termination of the receivership when it is appropriate to return control to the housing provider.	
Limits on receivers, etc., appointed by service manager or court HSA s.97	Receivers are not exempt from consent requirements. Restrictions on any “transfer process”	
Appointment of directors HSA s.98	No longer requires Ministerial Consent. 98(6) New requirement to consult with current directors “if any.” SHRA said Service Manager’s could indemnify	

	appointed directors, HSA is silent.	
Solicitor-client privilege HSA s. 99	No material change	
Service manger – appointed receiver, etc. HSA s.95 O. Reg. 367/11 s.104		
Required review HSA s.100 O. Reg. 367/11 s. 105	By January 2017 the Minister must review the enforcement provisions.	
Conflicts with Other Acts, etc. HSA s.101	No material change	

**Housing Services Act Analysis Project
Meeting #4 – November 7, 2011**

Part III – Service Managers

Part VIII – Payment of Certain Housing Costs

Part X - Miscellaneous

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
Part III – Service Managers		
Designation of service managers HSA s. 11 O. Reg. 367/11 s. 6	No material change.	
Role of service manager HSA s.12	Under the HSA the Service Manager role is expanded beyond administering and funding transferred housing programs to encompass Housing & Homelessness system planning responsibility.	
General powers of service managers HSA s.13	The SHRA included a detailed list of Service Manager powers. The HSA reframes these powers generally in terms of the authorities set out in other legislation (<i>Municipal Act, City of Toronto Act, Corporations Act</i>)	

Clarification on powers – municipal service manager HSA s.14	No material change.	
Clarification on powers – dssab service manager HSA s.15	No material change	
Powers of dssab service managers re debentures HSA s.16 O.Reg. 367/11 s. 7	No material change.	
Delegation by service manager HSA s.17	The SHRA provided for the designation of an administrator and specified the administrator's role. The HSA is silent with respect to delegation of powers to an administrator.	Service Managers may wish to seek legal advice to ensure that where an administrator was designated under the SHRA, the delegation of powers carries forward into the HSA environment.
Language of services HSA s.18 O.Reg. 367/11 s. 8	No material change.	
Service Manager consent- Ministerial policies and directives HSA s.19	The Province reserved the right to set policy and issue directives to Service Managers with respect to administration of Service Manager consents under the HSA. The Province has not exercised that right.	
Periodic reports to Minister HSA s.20 O. Reg. 367/11 s.9	In addition to the reporting currently required under the SHRA, the HSA requires Service Managers to report on the implementation of their Housing and Homelessness plans. The HSA also allows for prescription of additional reporting in the future regulations.	The reporting requirements related to the Housing and Homelessness plans have not yet been specified but will need to be considered as Service Managers develop their plans.
Other reports, etc., to Minister HSA s.21	The HSA positions the province to require additional Service Manager reporting in the future but no additional reports have been prescribed to date.	

Reporting to public HSA s. 22	Under the SHRA, Service Managers were required to make certain information available to the public but there were no public reporting requirements. Under the HSA, the province may require Service Managers to report publicly but the nature of these reports is not yet known. <i>(This section has not yet been proclaimed.)</i>	If regulations are prescribed under this section, Service Managers will need to collect the requisite information and create a public reporting process.
Remedy if service manager contravention HSA s.23	No material change.	
Distribution to service managers HSA s.102.	No material change.	
Provincial housing costs - definition HSA s.103	Under the SHRA there was some debate as to whether the province could require Service Manager reimbursement of costs such as those related to housing provider mortgage default costs. The HSA explicitly defines the recoverable provincial housing costs to include mortgage related costs even if the mortgage isn't related to a transferred housing program as well as any costs incurred under the Social Housing Agreement (1999).	Service managers now have explicit liability for a broad range of housing costs and must consider the related risk management implications. (e.g. liability for CMHC mortgage insurance claims for any mortgage on any social housing property)
Amount of Provincial housing costs HSA s.104 O. Reg. 367/11 s.106	No material change.	
Amount of recoverable costs HSA s.105 O. Reg. 367/11 s. 107	No material change.	
Allocation of costs among service managers HSA s.106, O. Reg. 367/11 s. 108	No material change.	
Revisions to cost or allocation	No material change.	

HSA s.107		
Collection of amounts owing HSA s.108	No material change.	
Housing costs - definition HSA s.109 O. Reg. 367/11 s.109 & 110	No material change.	
Amount of housing costs HSA s.110	No material change.	
Apportionment by municipal service manager HSA s.111 O. Reg. 367/11 s.111 to 114	No material change.	
Apportionment by dssab service manager HSA s.112 O. Reg. 367/11 s. 115 to 122	No material change.	
Regulation relating to apportionments HSA s.113	No material change.	
Revisions to costs or apportionment HSA s.114 O. Reg. 367/11 s. 123 & 124 Interest and penalties HSA s.115 O. Reg. 367/11 s. 125	No material change.	
Collection of amounts owing HSA s.116	No material change.	
GTA service manager HSA s.117 No revisions to costs HSA s. 118 GTA equalization payments HSA s.119 O. Reg. 367/11 s. 126 & 127	This HSA provision replaces the SHRA GTA pooling rules.	

HSA and Ontario Regulation References	What's Different	Key Considerations/Decision Points for Service Managers
<p>System for dealing with reviews HSA s. 155 O. Reg. 367/11 s. 138</p> <p>Reviews requested by household HSA s. 156</p> <p>Review requested by housing providers HSA s. 157</p> <p>Rules for reviews HSA s. 158</p>	<p>Although the SHRA included review procedural requirements, the requirement for a system and a review body to deal with reviews is new.</p> <p>With the exception of rent deferral (<i>subject to review under the SHRA but not under the HSA</i>), the decisions subject to review are essentially the same in both the SHRA and HSA.</p> <p>In establishing the review body, Service Managers must determine rules governing:</p> <ul style="list-style-type: none"> - appointment of members, - remuneration of members and - removal of members <p>The HSA procedural requirements are similar to the SHRA, with two additional provisions:</p> <ul style="list-style-type: none"> • members of the review body must be knowledgeable about the relevant provisions of the HSA and Regulations, and • no member of the review body can discuss the decision with the decision maker except during the course of the review. <p>Service Manager may delegate review responsibilities to a 3rd party.</p> <p>The SHRA stipulation that the review decision is</p>	<p>Service Managers will need to review their current internal review processes to determine whether they comply with the new HSA rules.</p>

	final was not carried forward into the HSA.	
Effective date of decision HSA s. 159 O. Reg. 367/11 s.139	The SHRA provisions ensured that a household could not use a review request as a tactic to delay an RGI increase. The HSA requires that decisions not take effect until after the review is completed, even if the review determines that the original decision was correct.	The HSA provision creates an incentive for households to request reviews as a way to delay RGI increases. MMAH has indicated that they will consider this unintended consequence as part of the on-going RGI work.
Restrictions on Dealing with Certain Land Definitions HSA s. 160	The list of restrictions in s. 161 and 162 has been shortened somewhat as section 160 now provides broader definitions of the terms “develop”, “mortgage” and “transfer”	
Real property transferred under a transfer order HSA s. 161 O. Reg. 367/11 s.140	This section of the HSA is specific to Public Housing. <ul style="list-style-type: none"> - Ministerial consent is required for transfer (sale) unless the transfer is in favour of the service manager, a local municipality or a housing corporation owned by the service manager or a local municipality - Service Manager consent is required for mortgages and development - Consent is not required for easements or expropriations 	Service Managers will need to establish processes to manage Local Housing Corporation consent requests.
Certain Housing projects HSA s.162 O. Reg. 367/11 s. 141	Federal and Part VII Housing Providers must obtain the Service Manager’s consent to mortgage their properties. Ministerial consent is required for transfer (sale) of a Part VII housing property. Consent is not required for leases or for mortgages renewed through the provincially administered mortgage pool. The SHRA required housing providers to register	Service Managers will need to establish processes to manage housing provider consent requests. Service Managers may wish to confirm that all of their providers complied with the SHRA restriction registration requirements.

	their property restrictions on title. The HSA assumes that all registrations are in place and carries them forward. However, there is nothing in the HSA that requires a housing provider to register the restrictions on title if they failed to do so under the SHRA.	
Notice HSA s.163 O. Reg. 367/11 s. 142	Service Manager must provide notification of consent to the Minister within 10 days.	Service Managers will need to establish business processes to ensure appropriate notice of consent is provided to the Minister.
Consent by Minister instead of service manager HSA s.164 O. Reg. 367/11 s.	The province reserved the right to substitute Ministerial consent for Service Manager consent in future.	
Invalidity HSA s. 165	No material change	
Restrictions on Certain Corporate Changes Certain housing providers restricted HSA s. 166 O. Reg. 367/11 s. 143	The HSA provides a list of circumstances where a housing provider is required to obtain the consent of the Service Manager rather than the Minister, for example amendment of articles or amalgamation.	Service Managers will need to establish processes to manage housing provider consent requests.
Exemptions for Certain Transfers Legislation from which certain transfers exempt HSA s. 167 O. Reg. 367/11 s.144	No material change	
Reporting by Minister Reporting to the public HSA s. 168	This is a new requirement in the HSA, however nothing has been prescribed as of yet.	Service Managers will need to comply with provincially prescribed reporting requirements
Dealing with Information Personal Information, standards HSA s. 169 O. Reg. 367/11 s. 145 & 146	No material change	
Disclosure to or from institutions	No material change	

HSA s. 170		
Agreements of Minister re information HSA s. 171	No material change	
Agreements of service managers re information HSA s. 172	Under the SHRA, the approval of the Minister was required for a Service Manager to enter into an information sharing agreement. Ministerial approval is not required under the HSA.	
Provisions relating to agreements HSA s. 173	No material change	
Sharing information HSA s. 174	No material change	
Restriction re prescribed personal information HSA s. 175 O. Reg. 367/11, s. 147	No material change	
Notification on collection HSA s. 176	No material change	
Provincial Refinancing System for Housing Providers No liability for change, etc. HSA s. 177	Under the HSA, Service Managers can create their own mortgage system but carry the full liability for so doing. Under the SHRA, Ministerial consent and a Service Manager indemnity were required.	
Transfer Orders Past transfers not affected HSA s. 178	The public housing transfer orders are still in effect. However restrictions that required Ministerial consent have been removed.	
Temporary continuation of power HSA s. 179	Transitional provision	
Conflicts with other acts, etc. This Act prevails HSA s 180	No material change	
Regulations HSA s 181	Implementation provision	
Regulations made by Minister HSA s 182	Implementation provision	
Conditions and restrictions	Implementation provision	

HSA s 183		
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