

## **Dear First Nations Child and Family Services Agencies,**

We are writing to you today to inform you about a Canadian Human Rights Tribunal ruling that was released today on February 1, 2018, and the implications for your organization and the First Nations children and families you serve. As you will see below, Canada has been ordered to change its funding approach to reimburse actual agency expenses in many areas, retroactive to the Tribunal's January 26, 2016 decision. The Tribunal remains seized with the complaint with the objective of ensuring that the discrimination is fully remedied and First Nations children receive services based on their distinct needs and in their best interests.

The Department of Indigenous Services (the Department) is working with the Assembly of First Nations, the First Nations Child and Family Caring Society (Caring Society), the National Advisory Committee on First Nations Child and Family Services Program Reform, regions and others to change how First Nations Child and Family Services agencies are funded.

In the interim, Canada is implementing a number of improvements to how agency funding works, consistent with the Tribunal's orders. The purpose of these changes is to provide agencies with funding to meet the best interests and needs of First Nations children and families, in as flexible a way as possible, and to remove any incentive to taking First Nations children into care.

The departmental regional office will be in contact with you to provide more information and answer any questions you may have.

### Part 1: Agency Needs Assessments

On October 28, 2016, the Department wrote to all agencies with a funding opportunity (\$25,000) in order to do an analysis of actual needs and distinct circumstances. If your agency has not yet submitted a completed needs assessment to the Department, please do so as soon as possible and before February 15, 2018. This information will help us to better understand your agency's needs and to develop a new funding approach. If you have any questions or concerns about completing your agency's needs assessment, please contact your departmental regional office.

### Part 2: Providing Funding Based on Actual Costs

The Department provided new funding to agencies as part of Budget 2016. While this funding addressed some gaps, we know that it did not address all needs.

Until a new funding approach is in place, the Department will provide funding for expenditures in the following areas based on your agency's actual costs:

1. Prevention / least disruptive measures
2. Intake and investigation
3. Legal fees
4. Building repairs

From this point forward, the Department will be funding these items similar to how we currently fund maintenance costs. This means that the Department provides your agency with an initial allocation at the beginning of the fiscal year, and we will pay your actual expenses where this initial budget is not sufficient to meet your needs in prevention/least disruptive measures, intake and investigation, legal fees and building repairs.

The process will be that, should your agency not have enough funding to cover costs in one or more of these four areas, you will provide the Department with documentation about your expenses, and we will provide you with the funding required to cover the actual costs.

*Note:* should your agency have a surplus, your departmental regional office will contact you to develop a plan as a part of implementing this new process.

### Part 3: Retroactive Funding

For the period of January 26, 2016 to March 31, 2018, the Department will be providing your agency with retroactive funding for prevention/least disruptive measures, intake and investigation, legal fees and building repairs for actual costs incurred for which you did not have enough funding and therefore had a deficit. The Department will also provide retroactive funding to cover potential salary deficits, needed to meet provincial rates, in the areas of prevention and intake and investigation.

In other words, if your agency had a deficit related to expenditures in one or more of these four areas, the Department will provide funding to cover that deficit. To process these reimbursements, the Department requires you to submit documentation as soon as possible. Note that the documentation required is for expenditures that the agency could not cover with the initial allocation, not for all expenditures in these areas. Also, should you require additional support to gather information about previous expenditures, please let the Department know and we will fund costs for the purposes of gathering the documentation for reimbursement.

### Part 4: Child Service Purchase Amount

As you know, the funding formula includes a line item called Child Service Purchase and/or “brief services.” This funding is to support the purchase of services for children and families at risk and where the child(ren) remain in the family home.

For children in care, these types of expenses are generally covered and reimbursed on actuals as part maintenance.

For children who are not in care, these types of expenses will be covered and reimbursed based on actuals as part of protection and prevention.

If, after these reimbursements, you do not have sufficient funding in maintenance or prevention allocation to purchase needed services, the Department will reimburse your expenses based on actuals.

Information about the process is outlined in Part 2 and Part 3 above.

#### Part 5: Small Agencies

(Parts 1 through 4, plus 5 *to be sent only to small agencies*)

If you are a small agency, Department will now fund your agency's costs in all areas similar to how we currently fund maintenance. This means that the Department will provide you with an initial allocation at the beginning of the year, and we will pay your actual expenses where this initial allocation was not sufficient to meet your agency's needs.

Information about the process is outlined in Part 2 and Part 3 above.

#### Concluding Remarks

From this point forward, please itemize and keep track of all expenses or activities in prevention/least disruptive measures, intake and investigation, legal fees, building repairs, child service purchase and small agency costs, so that we may proactively account for and respond to your agency's actual needs in these areas to support the development of a new funding approach.

We recognize this represents a significant shift in approach and that your agency will need support to understand and implement these changes. Annex A provides some initial guiding information on the process and eligible expenditures. More information will be provided to you soon.

Your point of contact in the region for all questions will be X, and they will be reaching out to you in February 2018 to discuss these changes. Additionally, there will be an information session with all agencies in your region held on X. We encourage you to send any questions in advance of the session.

Thank you for your cooperation as we implement these changes.

## **ANNEX A - Areas of Actuals Cost for First Nations Child and Family Service Agency Expenditures**

In each of these areas, you will need to keep track of all of your expenditures. Should your existing budget not be sufficient to cover actual costs, the Department will reimburse you based on the actual cost. This list will be revised as we work together to implement this new approach.

Example expenditures, and funding streams they are funded over, include:

### **Legal Costs:**

- legal services fees and costs related to a delegated First Nations Child and Family Service (FNCFS) Agency operations will be reimbursed under operations at actual cost;
- legal costs associated to a child not covered by other provincial/territorial departments and organizations or other federal departments will be reimbursed at actual cost under maintenance.

### **Building Repairs:**

- the Department will cover the actual costs of building renovation or repair projects to ensure facilities comply with applicable fire, safety and building codes and regulations.

### **Intake/Investigation:**

- staff salary, training, benefits and travel will be reimbursed at actual cost under operations.

### **Prevention/Least Disruptive Measures:**

- staff salary, travel, benefits, professional development, and staff training;
- prevention activities and least disruptive measures will be reimbursed under prevention at actual cost. Prevention activities and programming and/or least disruptive measures are designed to keep families and children together, in their own homes (as identified in the intake assessment, family service plan, family care/case plan, child's service plan, case plan, care plan, family enhancement agreement or similar document) and includes but is not limited to:
  - parenting/guardian education programs
  - respite care;
  - homemaker and parent/guardian aid services;
  - mentoring services for children and parents;
  - home management (e.g. budgeting, financial literacy, menu planning, directing families toward appropriate services, supporting parents/guardians in their search for work);

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- cultural, recreational and other activity-related needs for children still living at home;
- transportation and accommodation/meals (if needed) for children to attend non-medical and medical services or appointments,;
- transportation and accommodation/meals (if needed) for parents/guardians to attend non-medical (e.g. parenting classes) and medical services or appointments as identified
- purchase of basic needs items (e.g. a crib, bed, fridge, stove, air conditioner, etc.) meant to ensure that children be kept within the home; and
- non-medical counselling services.