



2022 CHRT 8

Introduction

On March 24, 2022, the Canadian Human Rights Tribunal (“CHRT”) issued an order in the First Nations Child and Family Caring Society et al. v Attorney General of Canada case. This order flows from a consent order made by the parties to the case following the Agreement-in-Principle. A consent order is an order made by a court based on an agreement reached by the parties.

The parties requested the expansion of Jordan’s Principle services and First Nations Child and Family Services (“FNCFS”) program supports to youth ages 18 to 25, to increase funding for prevention services for youth and families, and to discuss specific timelines for the implementation of this funding, as well as to coordinate March 31, 2022 as the final date of eligibility for compensation.

This decision is important in many regards, however specifically young First Nations adults who age out of care, face significant barriers once they lose those supports.

The parties are the Attorney General of Canada (“Canada”), the Caring Society, the Assembly of First Nations, and the Canadian Human Rights Commission. The Nishnawbe Aski Nation, the Chiefs of Ontario, and Amnesty International have interested party status in these proceedings.

Orders

In accordance with section 53(2) of the Canadian Human Rights Act (“CHRA”), the Tribunal ordered:

1. That the reform to the FNCFS Program must have an approach to budgeting that is informed by performance, considers indicators of well-being defined by the Measuring to Thrive framework of the Institute for Fiscal Studies and Democracy (“IFSD”).
2. Canada must fund post-majority care to youth-in-care ageing out, and former youth-in-care, who are 25 and younger, regardless of which province/territory they live in. Funding must be made accessible via the actuals process for maintenance and protection, reimbursed at actual cost to the First Nations authorized post-majority service provider, and available until March 31st 2023. Thereafter, funding will be made available through the reformed FNCFS Program’s funding formulas, in a way that is informed by evidence, agreed to by Parties involved.
3. Canada must evaluate the resources required to assist families and/or young adults in determining what supports are necessary for high needs individuals who receive support through Jordan’s Principle but are past the age of majority. Canada must consult with the other Parties within 60 days of March 24, 2022 to discuss the measures needed for post-majority care, and how funding capacity could be integrated into the long-term reform of Jordan’s Principle.
4. Canada must provide funding to the IFSD Phase 3 Proposal, the Non-Agency First Nations Needs Assessment, the Jordan’s Principle Data Needs Assessment, and the Jordan’s Principle Long Term Funding Approach Research.
5. Within 10 business days, or otherwise reasonable alternative timeframes to safeguard privacy, Canada must comply and fulfil any data requests submitted by IFSD.
6. Canada must confer with the Parties involved, and carry out cultural competency training and establish performance commitments for Indigenous Services Canada (“ISC”) employees. Canada must also set up a committee to generate and provide oversight to work plan, informed by evidence to prevent discrimination from happening again. Canada must also take appropriate steps to start implementing the work plan.
7. Starting April 1, 2022, Canada must fund prevention/least disruptive measures at \$2500 per resident on reserve/in the Yukon, before the full reform of the FNCFS Program. Canada must also continuously fund that amount based on inflation and population until the reformed FNCFS program is in full force. This amount is the baseline for prevention in the

reformed FNCFS program, as per paragraph 1 of 2021 CHRT 12. First Nations governments and FNCFS agencies who aren't prepared at the start date will be provided flexibility. Additionally, funding must be provided to the First Nations, and/or the FNCFS providers who are responsible for the delivery of prevention services, and the funds must be eligible to be carried forward.

8. Starting April 1, 2022, Canada must fund prevention/least disruptive measures for non-Agency First Nations at \$2500.00 per resident on-reserve/in the Yukon, on the same terms as defined above, regarding FNCFS Agencies.
9. Lastly, the Tribunal marked March 31, 2022 as the final eligibility date for compensation to First Nations children removed, and their parents, grandparents or caregivers.

Main points to take away from this order

- I) Performance, and well-being indicators are to inform the budgeting approach to FNCFS Programs. See [***Funding First Nations child and family services \(fncfs\): A performance budget approach to well-being***](#) for the Measuring to Thrive framework.
- II) Starting April 1, 2022 Canada will:
 - a. fund post-majority care to youth up to and including age 25.
 - b. Assess what resources would be needed to fund Jordan's Principe supports for those past the age of majority.
- III) Canada must ensure that employees at ISC undergo cultural competency training, as well as ensure the establishment performance commitments.
- IV) Canada must fund prevention measures for non-agency First Nations.
- V) The final eligibility date for compensation: March 31, 2022.

For more information on the CHRT case, please visit

www.fnwitness.ca.

For more on Jordan's Principe, or any of the other focus areas of the Caring Society, please visit our website at www.fncaringsociety.com.

You can read the full text of the decision on the I am a Witness Timeline [here](#).