



ONTARIO

AUG 20 1956

IN REPLY PLEASE REFER TO

DEPARTMENT OF PUBLIC WELFARE
CHILD WELFARE BRANCH

August 15th, 1956

AUG 20 1956

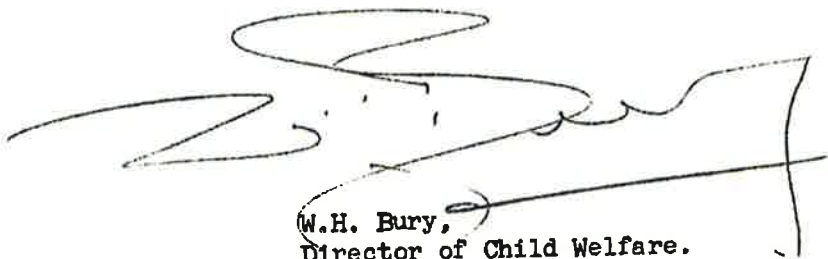
Memorandum to:

Presidents and
Local Directors

As you are aware, the government of Canada and the Government of the Province of Ontario have entered into an agreement covering the provision of Children's Aid services to the Indians in Ontario.

The agreement was signed on February ^{23rd} 26th, 1956, by the Honourable J.W. Pickersgill, Minister of Citizenship and Immigration for Canada and by the Honourable Louis P. Cecile, Minister of Public Welfare for Ontario. It forms the basis for negotiation of the agreements between the Indian Affairs Branch and the individual Children's Aid Societies and establishes the circumstances under which the Indian Affairs Branch will pay the maintenance for children in the care of Children's Aid Societies.

I was shocked to find today that I had failed to send to each Society a copy of this agreement. A copy is attached. I hope the oversight has not caused too much inconvenience to your Society.



W.H. Bury,
Director of Child Welfare.

Attach.

Memorandum #471



CANADA

DEPARTMENT OF
CITIZENSHIP AND IMMIGRATION

REFER TO FILE NUMBER

OTTAWA, December 14, 1956.

SEP 23 1957

To Regional Supervisors
and Indian Superintendents,
Province of Ontario.

Statement Concerning the Agreement with the Province of Ontario
Respecting Child Welfare Services.

In order that Indian children living on reserves may enjoy child welfare services provided for others in similar circumstances, an agreement has been negotiated with the Province of Ontario which provides for subsequent agreements presently being negotiated with individual Children's Aid Societies whose territorial jurisdiction includes Indian reserves.

Responsibilities of Indian Superintendents in
Respect to Agreement

Indian Superintendents should receive formal notification of the time and place of court hearings involving alleged neglect of Indian children or the children of Indian mothers likely to become the financial responsibility of the Branch and they are expected to represent the Branch in court. They may be called upon to supply evidence in regard to neglect, but for Branch purposes their primary responsibility is to assure that complete factual information in regard to the residence and the status of the individual concerned is presented. An independent investigation into the status and residence history of the case should be conducted prior to the court hearing. The importance of responsible work at this stage cannot be overemphasized as a single court decision may cost the Branch thousands of dollars over a period of years. If the Superintendent is not satisfied that all facts are presented, he may request an adjournment to secure further evidence.

Briefly, the Indian Superintendents' responsibilities may be summarized as follows:

1. To assure that, in the course of the proceedings, the significant facts governing residence and status of the child as outlined hereunder are presented to the court.
2. Arrange with the municipality found financially responsible by the court for the submission of copies of the Court Order, a transcript of the evidence and notification of the rate payable.

3. Where there is no doubt of financial responsibility, headquarters' authority for payment will be provided on receipt of an application for foster home placement on form IA3-114 submitted through the usual channels.
4. In disputed cases, or where the Superintendent feels that the court's recommendation or award is unjustified, all documents and information are to be forwarded to the Regional Office.

Interpretation of Agreement

Clause 5, subsections (a) and (b), together with the preamble will apply to court hearings when children are delivered to the care of a Children's Aid Society, irrespective of whether an agreement has been entered into with the Society concerned. In order that Agency staff may effectively represent the Department, it is important that the implications of the aforementioned Sections of the agreement are clearly understood. Clause 5, subsections (a) and (b), must be considered in the light of the preamble on page 1, which defines the spirit and intent of the agreement and reads as follows:

"Whereas pursuant to the Indian Act, Chapter 149, R.S.C., 1952 the Minister assumes responsibility for the welfare of Indians living during any calendar year part-time on reserves and part-time outside of the reserves in Ontario."

These sections of the agreement establish that the Department of Citizenship and Immigration will assume financial responsibility and pay the per diem rate for children delivered to the care of a society on the basis of evidence of status and residence.

Residence

By agreement with the Provincial Department of Public Welfare, Clause 5, subsections (a) and (b), and the aforementioned section of the preamble mean, in practice, that the Department of Citizenship and Immigration will pay maintenance costs of children under circumstances of residence as follows:

- (1) Those who are permanent residents on Indian reserves;
- (2) Those who have lived part of the calendar year on the Indian reserve;
- (3) Those whose last full year of residence during the preceding three-year period is found by the court to have been on an Indian reserve;
- (4) Those who have not, during the preceding three-

year period lived for a full year in any one location but whose longest period of continued residence is on an Indian reserve.

There may be cases where costs are made chargeable to the municipality in which a child was apprehended because there is insufficient evidence to definitely establish residence. Any such cases that appear to be logically the responsibility of this Department will be considered.

Status

Status requirements are clearly defined in Clause 5. It means that where the child or the mother of a child is an Indian within the meaning of the Indian Act, the Department will accept responsibility for payment of the rate as defined in the Child Welfare Act, on the recommendation of the court, or where a child is admitted to care on the written request of the Minister, or his designee. The Department also will reimburse any municipality or the Province where such municipality or the Province is ordered to pay the rate.

The amendment to Section 11 (e) of the Indian Act, effective August 14, 1956, was anticipated when the agreement with the Province of Ontario was signed. By virtue of the amendment to Section 11 (e) of the Indian Act, it is expected that the great majority of children of Indian mothers will acquire Band membership. In effect, therefore, Section 5 of this agreement does not alter the long term policy of the Department of restricting expenditures of appropriated funds for the benefit of persons of Indian status.

A few cases may arise involving children, of Indian mothers, who were ruled to be non-Indian under the provisions of former Section 11 (e) of the Act. Full particulars of all cases of this type are to be referred to Indian Affairs Branch Headquarters for a ruling.


General

Please note, in particular, that the courts do not have the power to find the Government of Canada financially liable. If the case falls within the terms of the agreement negotiated with the Province of Ontario as set out in Clause 5 (a) and (b), and provided that the residence conforms to the agreement reached with the Department of Public Welfare of the Province of Ontario, the Department will accept the recommendation of the court and reimburse the municipality in which the Indian reserve is located.

In the case of a territory without municipal organization, the court will normally find the Province financially responsible. The court may, as above, recommend that the Department reimburse the Province. This action will be taken subject to the provisos above.

NOTE: The regular procedure is for the judge of the court to find the municipality within which the reserve is located financially responsible, and to recommend that the municipality or Province be reimbursed by this Department if the court considers that the Department should be financially liable.

The matter of establishing working relationships with local Societies where agreements have been negotiated is under consideration. You will in the near future receive a statement on the subject.



H. M. Jones,
Director.

THIS AGREEMENT made in quintuplicate this 2nd day of April,

A. D., 1957.

B E T W E E N :

The Government of Canada represented by the Honourable John W. Pickersill, Minister of Citizenship and Immigration, hereinafter called the "Minister"

OF THE FIRST PART:

- and -

The Children's Aid Society of Great Britain represented by J. K. Pasmore, President, hereinafter called the "Society"

OF THE SECOND PART:

WHEREAS the Government of Canada entered into an agreement with the Government of the Province of Ontario on the twenty third day of February, 1956, a copy of which is hereto annexed to form part hereof mutatis mutandis and for the purpose of informing the party of the second part accordingly.

AND WHEREAS pursuant to the agreement between the Government of Canada and the Government of the Province of Ontario as provided for under the Indian Welfare Services Act agreements may be entered into with the welfare organizations referred to in the agreement.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that:

1. The Society shall undertake to provide services defined in the annexed agreement to Indians living within its territory.
2. The Society shall submit to the Minister, annually, within 15 days after the 31st day of March in each year, a statement in the form prescribed by the Minister.
3. The Minister shall reimburse the Society for services described in paragraph (c) of section 5 of the annexed agreement, by paying each year the sum of \$1.00 for each Indian whose name appears in the Indian Band Membership List and who lives on a reserve situated within its territory.
4. The rate provided for herein shall be reviewable annually and adjustments may be made at such time by mutual agreement.
- 5.(1) This agreement shall come into force on the day fixed by the Province when it grants approval in writing thereto, but

this day shall not be earlier than the first day of October, 1957, save and except the Society agrees in writing to commence its work at an earlier date, a copy of which approval shall be forwarded by this Society to the Minister within ten days of its receipt.

(2) This agreement may be terminated by either party giving three month's notice accordingly.

IN WITNESS WHEREOF the Honourable John W. Pickeraigill, Minister of Citizenship and Immigration of Canada, has hereunto set his hand on behalf of the Government of Canada, and J. W. Passmore, President, has hereunto set his hand on behalf of the Children's Aid Society of Brant, the day and year first above written.

Signed on behalf of the Government of Canada by the Honourable John W. Pickeraigill,
in the presence of

.....
Minister

.....
Signed on behalf of the Children's Aid Society of Brant by J. W. Passmore,
President,
in the presence of

Children's Aid Society
of Brant
Pres., J. W. Passmore
President

J. W. Passmore

In accordance with resolution of Board of Directors dated 28th February, 1957

AUG 20 1956

MEMORANDUM OF AGREEMENT RESPECTING CHILD WELFARE SERVICES FOR INDIANS IN ONTARIO MADE THE 23rd DAY OF FEBRUARY, 1956.

BETWEEN:

The Government of Canada represented by the Honourable John W. Pickersgill, Minister of Citizenship and Immigration, hereinafter called the "Minister"

OF THE FIRST PART

AND:

The Government of the Province of Ontario represented by the Honourable Louis P. Cecile, Minister of Public Welfare, hereinafter called the "Province"

OF THE SECOND PART

In this agreement,

"Children's Aid Society" or "Society" means a children's aid society approved by the Lieutenant-Governor in Council under

The Child Welfare Act, 1954; and

"Indian" means a person who is an Indian within the meaning of the Indian Act, Chapter 149, R.S.C. 1952.

WHEREAS pursuant to the Indian Act, Chapter 149, R.S.C., 1952 the Minister assumes responsibility for the welfare and well-being of Indians living on Indian reserves in Ontario and, indirectly, responsibility for the welfare of Indians living during any calendar year part-time on reserves and part-time outside of the reserves in Ontario;

AND WHEREAS pursuant to The Indian Welfare Services Act, 1955, the Province may make agreements with the Crown in right of Canada, or any agency thereof, to provide compensation to any Children's Aid Society that extends its facilities and services to Indians and respecting the provisions and payment of such services as will promote the well-being of Indians.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto mutually covenant and agree that:

1. The Province may approve Children's Aid Societies performing the same functions for Indians, as for other persons, whether resident on Indian reserves or in other areas of Ontario.
2. The Province shall provide the same grants and assistance to the Children's Aid Societies in their work with Indians as they do in their work with other persons.
3. The Province shall have the right to approve all agreements as may be necessary between the Minister and any Children's Aid Society to give effect to The Indian Welfare Services Act, 1955.
4. The Minister may enter into agreements with any Children's Aid Society whereby a Children's Aid Society will provide Indians living on or off reserves with the same services as it provides other persons, such services to include the cost of assistance given to Indians by Children's Aid Societies in accordance with the provisions governing assistance contained in the relevant provincial laws or pursuant to orders of the Courts and the provincial sharing of the costs of investigation and the costs of giving assistance.
5. The Minister shall, in all cases where a child or the mother of a child is an Indian:
 - (a) Pay the "rate" as defined in The Child Welfare Act, 1954 and the regulations thereunder to any Children's Aid Society.
 - (i) where it is recommended by the Court or
 - (ii) where a child is admitted to care without committal as a ward on the written request of the Minister or his designee,
 - (b) reimburse any municipality or the Province where such municipality or the Province is ordered by a Court to pay the rate to a Children's Aid Society, and

- (c) reimburse in full any Children's Aid Society for the time and other expenditures made in the provision of protection and family services on behalf of any Indian who has not established residence in a place other than an Indian reserve, the methods of payment and certification to be decided by an agreement between the Minister and the Society concerned.
6. This agreement shall come into force on the day it is made and may be terminated by either party hereto giving notice to that effect to the other party and the Children's Aid Societies at least three months before the end of the fiscal year.

IN WITNESS WHEREOF the Honourable John W. Pickersgill, Minister of Citizenship and Immigration of Canada, has hereunto set his hand on behalf of the Government of Canada, and the Honourable Louis P. Cecilie, Minister of Public Welfare for Ontario, has hereunto set his hand on behalf of Her Majesty, in right of Ontario, the day and year first above written.

Signed on behalf of the Government of Canada by the Honourable John W. Pickersgill, Minister of Citizenship and Immigration of Canada, in the presence of
"Paul Martin"
Signed on behalf of the Government of the Province of Ontario by the Honourable Louis P. Cecilie, Minister of Public Welfare, for the Province of Ontario, in the presence of
"Jas. S. Bard"

"J.W. PICKERSGILL,"

"LOUIS P. CECILIE,"

MEMORANDUM OF AGREEMENT RESPECTING CHILD WELFARE SERVICES FOR INDIANS IN ONTARIO
MADE THE 23rd DAY OF FEBRUARY, 1956.

BETWEEN:

The Government of Canada represented by the Honourable John W.
Pickersgill, Minister of Citizenship and Immigration, hereinafter
called the "Minister"

OF THE FIRST PART

AND:

The Government of the Province of Ontario represented by the
Honourable Louis P. Cecile, Minister of Public Welfare,
hereinafter called the "Province"

OF THE SECOND PART

In this agreement,

"Children's Aid Society" or "Society" means a children's
aid society approved by the Lieutenant-Governor in Council
under The Child Welfare Act, 1954, and

"Indian" means a person who is an Indian within the
meaning of the Indian Act, Chapter 149, R.S.C., 1952.

WHEREAS pursuant to the Indian Act, Chapter 149, R.S.C.,
1952 the Minister assumes responsibility for the welfare and
well-being of Indians living on Indian reserves in Ontario and,
indirectly, responsibility for the welfare of Indians living during
any calendar year part-time on reserves and part-time outside of
the reserves in Ontario;

AND WHEREAS pursuant to The Indian Welfare Services Act,
1955, the Province may make agreements with the Crown in right of
Canada, or any agency thereof, to provide compensation to any
Children's Aid Society that extends its facilities and services to
Indians and respecting the provision and payment of such services as
will promote the well-being of Indians.

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consideration of the premises and the mutual covenants and
agreements herein contained, the parties hereto mutually covenant
and agree that:

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2. The Province shall provide the same grants and assistance to the Children's Aid Societies in their work with Indians as they do in their work with other persons.
3. The Province shall have the right to approve all agreements as may be necessary between the Minister and any Children's Aid Society to give effect to The Indian Welfare Services Act, 1955.
4. The Minister may enter into agreements with any Children's Aid Society whereby a Children's Aid Society will provide Indians living on or off reserves with the same services as it provides other persons, such services to include the cost of assistance given to Indians by Children's Aid Societies in accordance with the provisions governing assistance contained in the relevant provincial laws or pursuant to orders of the Courts and the provincial sharing of the costs of investigation and the costs of giving assistance.
5. The Minister shall, in all cases where a child or the mother of a child is an Indian:
 - (a) pay the "rate" as defined in The Child Welfare Act, 1954 and the regulations thereunder to any Children's Aid Society
 - (i) where it is recommended by the Court, or
 - (ii) where a child is admitted to care without committal as a ward on the written request of the Minister or his designee,
 - (b) reimburse any municipality or the Province where such municipality or the Province is ordered by a Court to pay the rate to a Children's Aid Society, and
 - (c) reimburse in full any Children's Aid Society for the time and other expenditures made in the provision

of protection and family services on behalf of any Indian who has not established residence in a place other than an Indian reserve, the methods of payment and certification to be decided by agreement between the Minister and the Society concerned.

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Signed on behalf of the Government of Canada by the Honourable John W. Pickersgill, Minister of Citizenship and Immigration of Canada, in the presence of

"J. W. PICKERSGILL,"

"Paul Martin"

Signed on behalf of the Government of the Province of Ontario by the Honourable Louis P. Cecile, Minister of Public Welfare, for the Province of Ontario, in the presence of

"LOUIS P. CECILE,"

"Jas. S. Band"