

CHR Compensation Newsletter

National Indian & Inuit Community Health Representatives Organization Volume 1, January 2001

WAGE PARITY

at NIICHRO's AGM, Winnipeg Manitoba

On Saturday, November 18, 2000, the Trustees, the Actuary firms BDO/Eckler and the staff of the Compensation Office attended the Annual General Meeting of NIICHRO in Winnipeg, Manitoba to respond to all questions or concerns that were raised.

TRUSTEES

Margaret Horn gave an overview of the history of NIICHRO's claim submitted to the Canadian Human Rights Commission. Kathleen Mahoney then presented to the Assembly the progress made since the signing of the Agreement on June 30, 2000.

The Trustees have been appointed, the CHR Compensation Office has been set up to assist the CHRs in completing their application claim and the actuary firm has been contracted. Ms. Mahoney explained that the expenses related to the Settlement are being paid from interest earned from the fund's capital money. It was stressed that the CHR Settlement capital would remain untouched until the scheduled payments in 2002.

TRUST CORPORATION

Joe Marino, the Trustee representing the Royal Trust explained the Royal Trust's role.

Fiduciary: To share legal liability, responsibility, work and the obligations attached to the Trust.

Custodial: The CHR Trust Settlement funds are held in a Trust account at the Royal Trust. It is separate from other assets of Royal Trust and only the Trustees can release funds by resolutions. The Royal Trust maintains detailed records of all Trust meetings and report regularly to the Trustees.

Managerial: To take care of investments and assure that the Trust fund earn interest at the best rates.

COMPENSATION OFFICE

CLAIM AGENTS: The Claim Agent's role is to communicate directly with the CHRs, collect their application forms and when needed, assist the CHR in accessing documents and in completing their application. The data collected from the forms is entered into a computerized database.

Stephanie Horne and Debbie Dedam-Montour discussed the process of how mailing lists of CHRs, Band Councils and Health Centers were combined to form the first mail-out of information booklets on October 6, 2000. At that point a total of 2350 French & English booklets were sent out. Mailings are done on a weekly basis and so far, the Compensation Office has sent out an additional 400 Information booklets. Ms. Horne reviewed the Registration Form & the three (3) Consent Forms, guiding the CHRs through the process of completing these forms.

*The goal for all is an
expedient and equitable
distribution of the
CHR Trust Settlement
to eligible claimants.*

Due to the numerous tasks related to treatment of each CHR file, it cannot be overly stressed the importance of submitting your claim as soon as possible.

The Registration & Consent Form Process: The Registration Form, Consent Forms and any supporting documentations must be stamped and recorded when received then distributed to the Claims Agent responsible for that region.

The Claim Agent opens the file for the potential eligible CHR, reviews the documents to ensure that all forms are properly completed. The Claim Agent may be required to contact the individual CHR to provide any missing information, documentation or may need to return documents that were not signed. At this time the Claim Agent enters the information from the forms into the computerized database system.



Once data entry is complete, the consent forms will be forwarded to the respective authorities:

- Health Canada
- Revenue Canada
- Human Resources Development Canada

The information from the government sources may take a few months to receive therefore the sooner a claim is made, the sooner the Claim Agent can ensure that all documentation is complete for the actuary.

Protecting your privacy: The CHR Compensation Office has put controls in place to make sure that all records are kept confidential as well as safe. All staff are aware of the confidential nature of individual files, and will treat completed claims according to the standards of confidentiality practices. This means that all files are locked up daily and that only those who need to review a CHR's information such as the Claim Agents, the Consultant/Actuarial firm or the Trust can access it.

The Compensation Office also has the job of making sure that all data on the computer system is backed up on a daily basis using the latest in technology. In addition, a duplicate copy of the claim files are kept in a separate location. This is to ensure that all files can be replicated in case there was a mishap such as a fire at the CHR Compensation Office.

NIICHRO is doing everything possible to protect your documents and privacy by putting in place the necessary controls in the data gathering process to protect your information.

ACTUARY FIRMS BDO/Eckler

BDQ/Eckler's role is to oversee the data identification, collection and analysis. They will analyze the data sources for accessibility, accuracy and integrity. They will scrutinize the numbers and develop the distribution model that takes into account each CHR's data such as the work history, isolation factor, level of training and any other pertinent data deemed necessary. These factors will be used in calculating and formulating the recommended compensation amount to be presented to the Trustees for approval. BDO/Eckler will present monthly reports to the Trustees as well as a report to the CHRs at the Annual General Meeting of NIICHRO.

BDQ/Eckler will ensure smooth running of the project. They will assist the Trustees in achieving the goal of an expedient and equitable distribution of the CHR Trust Settlement to eligible claimants.

*All data is sent to
BDO/Eckler,
the Actuary Firms
to calculate eligibility of claims*

Eligible CHRs are those who did not receive a salary comparable to the federally employed CHRs and worked as a CHR for a First Nation, Innu or Inuit Entity at any time between September 9, 1980 and June 30, 2000. This includes personal representatives of any deceased or incompetent individuals.

Ineligible CHRs are individuals employed under:

- Public Service Employment Act (Canada)
- Public Service Act (Northwest Territories) or
- Funding agreements with the Government of the Northwest Territories
- Funding agreements with the Government of Nunavut

Supporting Documents & Consent Forms

To prove employment as a CHR, the standard of proof required is on the “balance of probabilities” which means the following are acceptable as proof: pay-stubs, Employment (or Unemployment) Insurance, pension documentation, training certificates, affidavit evidence from employers or other who will vouch for the CHR. The CHR Compensation Office will assist CHRs in gathering as much information and evidence as possible. There are also consent forms that CHRs can sign to allow the opening of government documents that will help prove employment as a CHR.

Can the process of identifying my “compensation range” be accelerate?

The payment schedule outlined in the Agreement identifies the Good Faith payment, the first payment and final compensation payment by June 2003. This cannot be modified. Still, the SOONER more CHRs apply for compensation the better. This will enable BDO/ Eckler to make more precise calculations in determining the compensation range owed to each eligible CHR.

CHRs who make their claim after June 2001 will not be penalized. The impact may be felt by those who have registered early as they will need to wait for their fellow CHRs to apply before a more precise compensation range can be determined.

The level of compensation will not be the same for every CHR because a CHR that worked longer will have a bigger settlement than one who has worked for a shorter period of time. The calculation of the compensation range to be shown to CHRs before they sign the release forms will be more accurate when more of the CHRs register.

Out of the country...

The CHR Compensation Office is making every effort to advertise the settlement to all eligible CHR's. For those that have left the country, they may be eligible claimants, no matter where they live. It is through the newspaper ads, Public Service Announcements and particularly through word of mouth and the cooperation of their fellow CHRs that the Compensation Office has been able to reach this segment of the CHR population.

What about the settlement for deceased CHRs...

When a will exists, the legally recognized “Personal Representative” (executor or administrator) submits the claim on behalf of the deceased CHR.

In the case where no will exists, if the eligible CHR is a member of a band and lived on-reserve, a “representative” will be appointed by the Minister of Indian & Northern Affairs who will submit the claim on behalf of the heirs. If the CHR lived off-reserve, the heirs will need to go to the courts for Letters of Probate.

For more information: *The Community Health Representatives TRUST SETTLEMENT Information & Registration Booklet*, pages 38-39.

PAYMENT SCHEDULE

The Payment Schedule is outlined in the Trust Agreement. Payments are made only to claimants who are approved as per the Trust Settlement Agreement and who have signed the release forms.

Year 1 (2000 - 2001)

- Individual CHRs file claims.
- NIICHRRO inspects and accepts claims.
- List of beneficiaries is drawn up.
- Data program developed by BDO/Eckler to formulate a distribution model
- Verification of claims.
- Distribution Model determines a range of amounts owed with description as to how the amounts are arrived at.
- **First (Good Faith) payment** will be made from interest earned from the trust fund, prorated based on compensation range determined by BDO/Eckler.

Year 2 (2001 - 2002)

All (majority) claims finalized.
Depending on # of claims, **second payment of 40% – 60%** of the trust fund distributed on a pro rata basis, based on length and proof of employment.
Appeal process implemented.

Year 3 (2002 - 2003)

Limitation period for filing claims expires.
Appeal period expires.
After all claims are processed, **third payment (balance owed)** with explanation of calculations of the sum received.
Unusual or difficult claims are considered.

Year 4 & 5 (2003 - 2005)

If necessary, items in year 3 are continued.

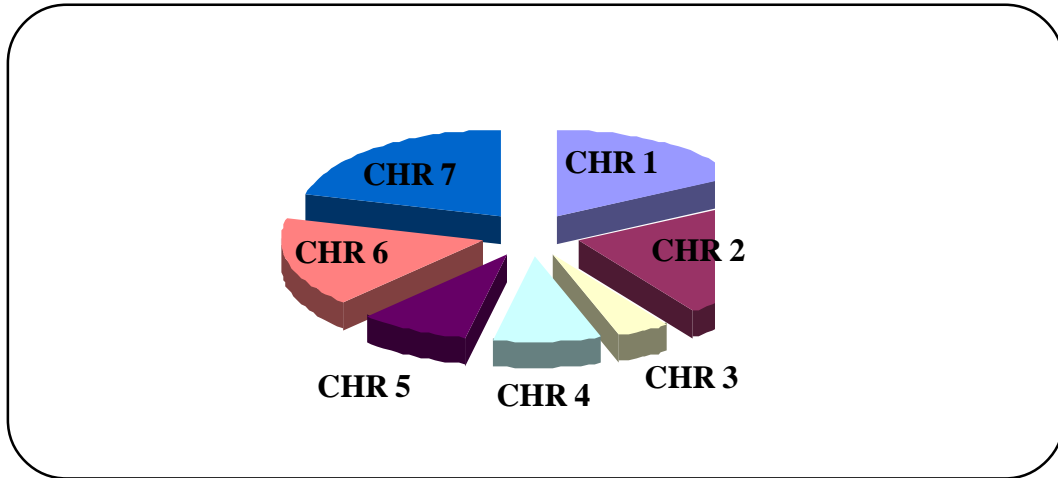
At the time of receiving the **Good Faith Payment**
the CHR will be required to sign the release forms.

The CHR will be presented a copy of the report which will
explain how their compensation range was determined.

Did you know that.....

The Trust Fund earns **over \$180,000 per month in interest.** It is the interest monies that will be used to make the Good Faith Payment on or around June 2001. Since it takes time to register all the CHRs and determine eligibility, it is comforting and reassuring to know that the Settlement capital will remain intact and earn interest until June 2002 when the Trustees will begin to make the first wage compensation payments.

Where am I on the payment range?



PRESENTED BY: François Vachon, Actuary

Q: Why should the share of one CHR be different than the share of another CHR?

A: Because pay inequity did not affect all CHRs to the same extent. All cases are different.

Q: How will we measure those differences?

1. For each CHR, obtain the total that he/she was actually paid in each period from September 1980 to June 2000.
2. Calculate what he/she should have been paid in the same period.
3. Total up the underpayments. This will obviously not be the same for everybody.

Q: Will a CHR receive the total of their underpayments?

A: No, not dollar for dollar. Because the grand total for all CHRs together is likely to be more than the settlement that was received. Also the underpaid wages will be calculated on today's dollar value.

Example:

| | | |
|---------------|---|----------------|
| \$100 in 1980 | ≠ | \$100 in 2000 |
| \$100 in 1980 | = | \$212 in 2000* |

* Based on Consumer Price Index

Q: How big (much) will my share be?

A: The more pieces of pie that are given out, the smaller the pieces you are going to receive. As more and more claims come in, it will be easier to determine how to divide the total amount but it is hard to estimate how the division will look without having many claims to go on at this stage. Note also that the range for any individual CHRs will be subject to the completeness of her/his information. What this means is that it is important that all CHRs provide information as soon as possible.

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Health & Happiness

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FREQUENTLY ASKED QUESTIONS

SETTLEMENT FUNDS & PAYMENT SCHEDULE

1. Q: When are the CHRs going to get their first 1st cheques?

A: The first cheque or the “good faith” payment is a small amount paid on the first year anniversary of the signing of the Agreement – June 30, 2001. An earlier signing date of the settlement was anticipated (December 1999), however the mediation process was longer than expected, and as a result, the original date for the “good faith” payment slated for December 2000 was not possible. By June 2001, the actuarial firm should have enough data to provide you with a “range of payment”. It is important to note that you must sign the release form to receive the “good faith” payment.

2. Q: The CHR Program was in place before September 9, 1980 so why is this the starting date of the Settlement?

A: In 1981, the federally employed CHRs had filed a complaint with the Canadian Human Rights Commission regarding wage parity. In a 1987 Tribunal Order, salary adjustments were awarded to these CHRs for retroactive pay to September 1980. This date therefore became the benchmark in the CHR Settlement.

3. Q: What will happen if the CHRs (majority) band together to demand payments now?

A: The Trust Agreement explicitly states the payment schedule which spans a 5 year period. The Trustees are bound by the terms of the Trust Settlement Agreement - a legal and binding document (filed within Alberta). The Trust was established to ensure that the Settlement monies were distributed fairly and equitably to all CHR beneficiaries. This schedule is to ensure that the Trust has adequate time to collect all data before giving out the compensation.

4. Q: Will ALL monies be divided between CHRs.

A: 100% of the capital of the CHR compensation will be distributed to the CHRs. The Trust monies are divided into two categories: 1) the capital for the CHRs and 2) for the administration. If there is a balance in the administration, these monies will be redistributed.

5. Q: This has been going on for years and CHRs have already given their information, so why can't the process be speeded up?

A: NIICHR0 had only the Executive Director and an Executive Assistant on staff. Thus, there were no human or financial resources to perform the work of contacting all CHRs and entering the data into a database. The preparation of the case required CHRs to submit information to NIICHR0 that allowed the parties to estimate the amount of the settlement. During the case preparation, only 960 CHRs submitted information. From this list, some only gave their name or their addresses which are now outdated. The Trust Settlement estimates that the number of eligible CHRs is between 1200 – 1500. Since this was a *settlement* and considering that both the amount of the settlement and the number of eligible CHRs was estimated, it will not be a dollar for dollar compensation. The CHR Compensation Office needs adequate time to collect data from all eligible CHRs to determine their range of compensation. If arbitrary payments are made before knowing what each and every eligible CHR's share is, the Trustees would be in breach of trust and in danger of spending all the money whereby some eligible CHRs may be completely left out.

PROCESSING CLAIMS & ELIGIBILITY

6. Q: What is the structure in place and who is responsible for what?

A: The structure is:

NIICHR0-CHR Compensation Office:

Claim Agents communicate directly with the CHRs and collect data required by the Trustees and BDO/Eckler.

ACTUARY FIRMS, BDO/Eckler:

BDO/Eckler develops the computer program and distribution model for calculating each CHR's share of the Settlement. They will present reports to the Trustees regarding compensation range per CHR and report to the CHRs at the Annual General Meeting.

TRUSTEES:

The individuals appointed as decision makers with regards to the Trust's obligations and the Trust Fund.

TRUST CORPORATION:

Royal Trust Corporation manages the Trust Fund on deposit and issues all cheques based on decisions of the Trustees.

7. Q: Would a person who was a CHR for the government and then transferred to the band qualify for compensation?

A: Yes, if at any time a band employed CHR did not work at the higher government rate (between 1980 - 2000) and has proof of their work as a CHR at a lower rate they are eligible for compensation under the Settlement Agreement.

8. Q: What is the official deadline to apply? And will you accept any late applications, and under what circumstances?

A: To submit an application claim, the Agreement allows for 36 months from the time the Agreement came into force therefore, the deadline to apply is June 30, 2003. For a claim that is received after the 36 month time limit, the Trustees have the discretion as to whether or not to allow the claim.

SUPPORTING DOCUMENTS & COMPENSATION RANGE FACTORS

9. Q: If I send in a T-4 for a given year(s), are you still going to have to send in my consent form to Revenue Canada?

A: Yes, we still need to confirm all information. When possible, we must cross check all information. This will guard against fraudulent claims. The more information we have, the more we can assure CHRs that they will receive their accurate share of the Settlement.

10. Q: Why are you asking for my training certificates?

A: Once again, training certificates assist in confirming that you had worked as a CHR, supporting your claim application and compensation range.

11. Q: If a CHR is eligible for northern isolation pay, will this be factored into their compensation?

A: Yes, it will be factored into the mathematical formula (distribution model).

12. Q: If I send in my originals, are you going to mail them back to me and when?

A: Yes, all originals will be mailed at the end of the 5 year claim period. We must have all originals for auditing purposes.

DISPUTES

13. Q: Can I sue Health Canada on my own?

A: If you do not sign the release forms, you can sue but you must get your own lawyer. NIICHR0 originally filed the complaint to the Canadian Human Rights Commission of Canada (“CHRC”) and it is the CHRC who must investigate if a complaint is justified. NIICHR0 complained that CHRs working for bands were treated differently from those working for Health Canada as public servants. The CHRC found that there existed an employer-employee relationship and that CHRs should have benefited from the 1987 Tribunal Order. CHRC will refer any further complaints regarding the 1980 – 2000 time period to the NIICHR0 Settlement. As this is a Settlement and we did not go to litigation (Tribunal), it was not dollar for dollar and Health Canada did not agree that there was an “employer-employee” relationship.

14. Q: What happens if I do not sign the waiver?

A: If you have not signed the waiver (release forms) before June 30, 2003, you will forfeit your share of the Settlement. After this date, claims will only be considered under special circumstances.

15. Q: What if I am not happy with the treatment of my file in general?

A: To assure objectivity, the process on how each file is treated is standardized with control mechanisms developed by the Actuary Firms BDO/Eckler.

16. Q: Is there an appeal process or ombudsman type committee in place? (If all else fails, does the claimant have an avenue to address their complaints/concerns)?

A: The Trustees are obligated to set up a fair process for appeals. This process is still being formalized. If after an appeal, the CHR still believes that there was a breach of Trust, then the CHR has the right to go to court. A Trustee that acts in breach of Trust can be held personally liable for his/her actions.

WHO'S WHO

CHR Settlement Trustees

Margaret Horn
Kathleen Mahoney
Norma Diamond
Rachel Ermineskin
Joe Marino, Royal Trust Corporation Representative

Actuary Firms - BDO/Eckler

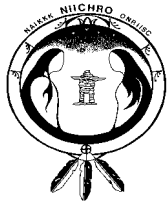
Mario Torre, Project Leader
François Vachon, Actuary
James Kane, Chartered Accountant
Narda Fernández-Dávila, Manager Service Technologies

CHR Compensation Office

| | |
|----------|--|
| Ext. 221 | Stephanie Horne, Claims Manager, responsible for Nova Scotia and Yukon. |
| Ext. 222 | Ken Williams, Claims Agent for Ontario and Manitoba. |
| Ext. 223 | Kim Norton, Claims Agent for Alberta and Saskatchewan. |
| Ext. 224 | Natalie Beauvais, Claims Agent for Prince Edward Island, New Brunswick, Quebec and British Columbia. |
| Ext. 225 | Debbie Dedam-Montour, Administration Officer, responsible for Newfoundland/Labrador and the Northwest Territories. |

Toll-free Help-lines

| | |
|-----------------|----------------|
| Telephone | 1-866-644-2476 |
| Fax | 1-866-635-3135 |
| Montreal Region | 450-635-6336 |



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It is important that all CHRs send in their claim as soon as possible.