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### ■ Definition of eligibility

NIICHRO's 1992 complaint to the Canadian Human Rights Commission and the subsequent litigation that resulted in the CHR Trust Settlement was based on band-employed CHRs being discriminated against because they were excluded from the 1987 Tribunal Consent Order regarding wage parity for federally employed CHRs. The funds under litigation were the Contribution Agreements between Bands and Her Majesty, which designate specific funding for CHRs. The litigation did not include funding from other government program funds. Salaries paid from funds outside these Contribution Agreements are not eligible for compensation.

One must be an **eligible CHR** to receive compensation from the CHR Trust Settlement:

**Eligible CHR** means an individual who worked for income and provided services as a CHR to a First Nation, Innu or Inuit Entity at any time between September 9, 1980 and June 30, 2000, pursuant to a funding agreement for a CHR between that Entity and Her Majesty, and includes the personal representatives of any deceased or incompetent individual but, for greater certainty, does not include an individual employed under the *Public Service Employment Act* (Canada), the *Public Service Act* (Northwest Territories) or under a funding agreement with a provincial government, the Government of the Northwest Territories or of Nunavut as "successor in title" for the period of time during which the individual was so employed.

In assessing all documents, The Trustees have directed the Compensation Office to consider eligibility based on the balance of probability using the following criteria:

Employed:	Worked for income as a CHR
Dates:	Between Sept 9, 1980 and June 30, 2000
Employer:	First Nation, Innu or Inuit Entity
Title:	CHR
Funding:	Contribution Agreement for a CHR
Parties:	Her Majesty and the First Nation, Innu or Inuit Entity
Evidence:	Application, Consent forms, letters, memos, affidavits, Band Council Resolutions, minutes of meetings, payroll ledgers, pay stubs, Record of Employment forms, time sheets, T4s, Contribution Agreements, CWIS allocation

**The DEADLINE  
to submit an  
application for  
compensation from  
the CHR Trust  
Settlement is  
JUNE 30, 2003.**

## ■ Payment in early 2003

The last issue of the newsletter stated that 1,046 CHRs received a payment in the last payment process. There were still a number of people whose files contained conflicting information or lacked salary information. November 22, 2002 was the deadline for submitting additional salary information or information to resolve conflicts in a file. The Compensation Office has put priority on those files that were not issued a payment in the last distribution process and on claims that were only partly validated. If a claimant has already received 40 per cent or more of his/her estimated share of the Settlement, he/she should not expect to be part of this next payment distribution.

At this time, the date for this distribution has not yet been determined. The task of comparing files to the Contribution Agreements and to other claims from the same community is a process that requires careful examination and cannot be rushed.

## ■ Final payment

Once the payment process in early 2003 is complete, the Compensation Office will once again review all files to ensure that any new information added after the November 22, 2002 deadline will be taken into consideration for the final payment. The Compensation Office database has 2,294 files: 1,544 claims are active while 750 are inactive. Files are inactive because they are considered not eligible and/or not applicable because the claimants were not CHRs.



## ■ T3 and Interest Income

The Royal Trust issues a T3 representing the taxable income (interest) paid to a beneficiary from a Trust fund. All those who received a Good Faith payment received a T3 because this was money paid from the interest earned by the Trust fund. For first-time recipients of a compensation payment, a portion of their payment will be from the interest earned by the Trust. The Royal Trust will issue them a T3 for the amount of their compensation that is taxable income. It is the actuary who prepares a distribution model for how the interest income earned by the Trust in 2002 will be divided among the beneficiaries.

The final deadline for submitting an application for compensation from the CHR Trust Settlement is June 30, 2003. The claims that are received by this deadline will require some months to finalize. In addition to these new claims, the claims that presently contain conflicts will also have to be finalized. Beneficiaries should not expect their final compensation payment until mid-autumn of 2003.

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## ■ File re-evaluations

The re-evaluation of a file can cause the file status to change, resulting in the claimant not being eligible for all or part of his/her claim, or having the amount of his/her share of the Settlement revised. Due to the conflicts in files, the Compensation Office has initiated a process whereby a file undergoes numerous levels of assessment.

A file is reviewed to ensure appropriate documents are provided: application form, consent form, letter from employer (band) confirming the claimant held the job title of a CHR, and salary information to enable Claim Agents to reconstruct employment history. At this level, a claim may appear valid and have all the requested documents.

Next, a file is compared to the Community Workload Increase System (CWIS), the Contribution Agreements and the other claims from the same community. This will identify excess claims made by individuals who were not CHRs but were for example Referral Clerks, Transportation Coordinators, Health Educators or Community Support Workers. At this level, it can be confirmed that:

- i. There was a funding agreement for a CHR.
- ii. The total claims do not exceed the CHR positions allocated to the community.

**If there was no funding agreement for the CHR position**, those who were previously considered eligible will now be informed that in re-evaluating their claim, it has been determined that since there was no funding for a CHR, they are not eligible for compensation from the CHR Settlement Trust. If these individuals received a payment they were not entitled to, they will be required to reimburse the Trust.

**If the claims exceed the number of CHR positions** allocated to a community in the Contribution Agreement, each file that falls within the periods of excess is re-evaluated. It may be determined that those who were previously considered eligible are no longer entitled to compensation from the Settlement Trust because they did not hold the title of a CHR (ex: Referral Clerk, Injury Prevention Coordinator, Mental Health Worker, Home Care Worker, Home Care Aide, Community Support Services Worker). Another reason applicants may be deemed not eligible is that they did hold the title of CHR but were funded through sources other than the Contribution Agreement between the Band and Her Majesty for a CHR position.



Finally, the salary information in a file is compared to salary rates of other claimants from the same community. The salary calculations begin with the information in the file: Band letter, pay stubs, payroll ledgers, T4s, T4Es, and the Contribution Agreement (when available). From these sources of information, the following can be determined: the start date as a CHR, the last date of employment as a CHR, the rates per hour, and the number of hours worked for each year of the claim. When a file presents conflicting information, other claims from the same community are referred to and used for comparison. If the salary calculation results in a rate per hour that is too low, the claim is compared to other claims covering the same period and the co-workers' hourly rate may be used in assessing the claimant's salary information.

For example, if in 1992 the CHRs in the community were earning \$12 per hour:

$\$12 \times 37.5 \text{ hours} = \$450$ . A claimant from the same community presents pay stubs for \$360 stating that he/she worked 37.5 hours per week. To determine the rate per hour, the salary calculation would be  $\$360 / 37.5 = \$9.60$ , which is too low. If there is absolute confirmation that the claimant was a CHR and there is no evidence proving that the claimant actually worked 37.5 hours per week, the Compensation Office will adjust the hours from 37.5 to 30 so that the claimant's hourly rate corresponds to his/her co-workers':  $\$360 / 30 = \$12$ .

Alternately, the low rate per hour may be comparably low because the applicant was the Referral Clerk claiming that he/she performed the duties of a CHR. If there is an excess of claims in the community and the claimant's hourly rate was \$9.60 because he/she was the Referral Clerk, this claimant is not eligible for compensation. Eligible beneficiaries must have held the job title of CHR and must have been funded as a

#### 4 CHR through the Contribution Agreement.



## ■ When is a claim not valid?

The Compensation Office has received applications for compensation that are considered “not valid.” A claim is not valid if:

- ☒ The applicant is requesting compensation for a period prior to September 9, 1980;
- ☒ The applicant is requesting compensation for a period after June 30, 2000;
- ☒ The applicant was employed by the Government of Canada;
- ☒ The applicant was employed by the Government of a Province;
- ☒ The applicant did not have the job title of Community Health Representative;
- ☒ There was no funding for a CHR during the period of the claim.

The CHR Trust Settlement is to compensate Community Health Representatives only and not individuals who worked in the field of community health in other capacities.

If an applicant worked alongside a CHR – that does not mean he/she was a CHR.

If an applicant was funded as a referral clerk – he/she is not an eligible beneficiary.

If an applicant “did CHR work” but held a different job title – he/she was not a CHR.



**ONLY** when the applicant  
was a band-employed CHR  
**AND** held the CHR job title  
**AND** was funded as a CHR in  
the Contribution Agreement  
can he/she be eligible for  
compensation.

## ■ Repayment to Trust

If upon re-evaluation of your claim, it has been discovered that you were not an eligible beneficiary of the CHR Trust Settlement but you have received a payment, you will be required to reimburse the Trust the money you were not entitled to.

The CHR Settlement Trust Agreement states that a claimant whose claim has been denied, or in respect of which the claimant disputes the amount to be awarded by the Trustees, may, within thirty (30) business days of receipt of a notice in regard to that claim, submit the claim to the Trustees for their reconsideration, in whole or in part, and the Trustees shall reconsider the Claim.

The CHR Settlement Trust Agreement further states that the Trustees shall determine the procedure for claimants to submit a claim for reconsideration, which procedure shall be communicated by the Trustees to each claimant whose Claim was denied and shall provide a reasonable opportunity for the claimant to make representations and produce evidence in support of his/her Claim. The decision of the Trustees on reconsideration of a claim is final.

## ■ NIICHO Website

The NIICHO website: [www.niichro.com](http://www.niichro.com) offers access to Volumes 1 to 8 of the NIICHO Compensation Newsletters by clicking on CHR Compensation Office. Only eligible beneficiaries have access to the Settlement Agreement so you must contact a Claim Agent for your username and password.



NIICHO Compensation Newsletters

## ■ Claim Agents & Trustees

### Claim Agents

ALBERTA	1-866-644-2476, Ext 222 Carlene Deer e-mail: carlened@niichro.com
ATLANTIC	1-866-644-2476, Ext 221 Trudy Jacobs e-mail: trudyj@niichro.com
BRITISH COLUMBIA	1-866-644-2476, Ext 224 Linda Diabo e-mail: lindad@niichro.com
MANITOBA	1-800-632-0892, Ext 23 Wendy Mayo e-mail: wendym@niichro.com
ONTARIO	1-866-644-2476, Ext 223 Joanne Jacobs e-mail: joannej@niichro.com
QUEBEC	1-866-644-2476, Ext 221 Trudy Jacobs e-mail: trudyj@niichro.com
SASKATCHEWAN	1-800-632-0892, Ext 26 Gale Leborgne e-mail: galel@niichro.com
YUKON	1-866-644-2476, Ext 221 Trudy Jacobs e-mail: trudyj@niichro.com

**Toll-free fax numbers:** 1-866-635-3135  
1-866-281-2014



### CHR Settlement Trustees

Margaret Horn  
Rachel Ermineskin  
Kathleen Mahoney  
Phil Fontaine  
Scott Hamilton, Representative of the Royal Trust



## ■ NIICHO Annual Meeting

The National Indian and Inuit Community Health Representatives Organization announces the upcoming **Coming Full Circle** National Training Session and 12th Annual General Meeting:

**June 12 - 14, 2003**

Travelodge Hotel and Convention Centre - Ottawa West  
1376 Carling Avenue  
Ottawa, ON K1Z 7L5  
For reservations, call 1-800-578-7878 or (613) 722-7600  
Room rate: \$95 single/double + taxes

NIICHO will offer 2½ days' training on Healthy Living and Activity for the Frail and Disabled Aboriginal Elders.

Registration Fee of \$375 will include Training Manual, 28-min. *Coming Full Circle* video, three days of Breakfast and Lunch buffets, Banquet ticket and canvas bag.

### Schedule:

Thursday, June 12

Annual General Meeting

9 a.m. - 12 noon

National Training Session

1 p.m. - 4 p.m.

Friday, June 13

National Training Session

9 a.m. - 4 p.m.

Banquet

6 p.m. - 9 p.m.

Saturday, June 14

National Training Session

9 a.m. - 4 p.m.



**Contact:** National Indian and Inuit Community Health Representatives Organization  
P.O. Box 1019, Kahnawake QC J0L 1B0  
(450) 632-0892 (p) (450) 632-2111 (f)  
niichro@niichro.com www.niichro.com

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## ■ CHR Trust Settlement - Appeal Guidelines

### GENERAL

These are only guidelines and are not meant to be exhaustive. As the Trustees gain experience in applying these guidelines, these guidelines may be adjusted, as necessary. These guidelines apply to an individual who has submitted an application for compensation from the CHR Trust Settlement, hereafter known as the “Settlement.”

### 1. DEFINITIONS

- a) Claim – The application, consent forms and supporting documents that were submitted with the intent of requesting compensation from the Settlement.
- b) Claimant – An individual who has submitted a claim to the Settlement or a Legal Representative who has submitted a claim to the Settlement on behalf of the estate of a deceased individual.
- c) Appeal – The request to have a claim reconsidered when it has been denied or when the Claimant disputes the amount awarded by the Trustees.
- d) Appellant – The claimant or the Legal Representative of an individual’s estate who is entering an Appeal Submission.
- e) Business day – means a day other than Saturday, Sunday or a statutory holiday.

### 2. GROUNDS FOR APPEAL

- a) That the claim was treated in a manner inconsistent with the terms of the Settlement.
- b) That the calculation guidelines were not properly followed.
- c) That relevant information was not considered.
- d) That new information or evidence is provided.

### 3. APPEAL SUBMISSION FORM

The Appeal Submission Form must:

- a) Provide the name, address, social insurance number, name of the employer(s), period of the claim.
- b) Identify grounds for an appeal.
- c) Provide information to support the appeal.
- d) Be sent to the NIICHR O Compensation Office where it will be reviewed for completeness. Complete Appeals will be forwarded to the Trustees. If you have any questions regarding the Appeal Submission Form, dial the toll-free number 1-866-644-2476.

### 4. APPEAL SUBMISSIONS

- a) To appeal a decision regarding a claim, the appellant must submit in writing the reason for the appeal and provide documents to support that appeal within thirty (30) business days of receipt of a notice in regards to that claim.
- b) The Appeal Submission and its supporting documents must be sent to the NIICHR O Compensation Office. Two designated agents of the Trustees will review appeals to confirm if they are complete. Complete appeals will be brought to the attention of the Trustees for review.
- c) The decision of the Trustees on the reconsideration of a claim is final.

**Send Appeal to:** NIICHR O Compensation Office  
P.O. Box 1019  
Kahnawake, QC J0L 1B0

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**■ CHR Trust Settlement – Appeal Submission Form**

Name of claimant \_\_\_\_\_

Address \_\_\_\_\_

Social Insurance Number \_\_\_\_\_

Employer's Name \_\_\_\_\_

Period of Claim (dates) \_\_\_\_\_

1. I hereby state that I am appealing the decision based on the following grounds:  
(Refer to point 2, Grounds for Appeal in the Appeal Guidelines.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Based on the following reasons – explain in detail why:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The following information is in support of my appeal. This information was not considered or is new information in support of my appeal.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Send to: **NIICHRO Compensation Office, P.O. Box 1019, Kahnawake, QC J0L 1B0**

\_\_\_\_\_  
Signature of Appellant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print name of Appellant

STAMPED UPON RECEIPT:  
NIICHRO COMPENSATION OFFICE