

Gouvernement du Québec

O.C. 1914-2023, 20 December 2023

Youth Protection Act
(chapter P-34.1)

Act respecting health services and social services
(chapter S-4.2)

Act respecting health services and social services for
Cree Native persons
(chapter S-5)

Financial assistance to facilitate tutorship and Indigenous customary tutorship to a child

Regulation respecting financial assistance to facilitate
tutorship and Indigenous customary tutorship to a child

WHEREAS, under section 70.3 of the Youth Protection Act (chapter P-34.1), to facilitate tutorship, financial assistance for the child's upkeep may be granted to the tutor referred to in section 70.2 of the Act, according to the terms and conditions prescribed by government regulation;

WHEREAS, under section 131.19 of the Act, financial assistance may, in the cases and on the terms and conditions prescribed by government regulation, be granted by an institution operating a child and youth protection centre to facilitate in particular Indigenous customary tutorship to a child whose situation is taken in charge by a director of youth protection;

WHEREAS, under paragraphs e.1 and i of section 132 of the Act, the Government may make regulations in particular to determine the cases in which and the terms and conditions on which financial assistance may be granted to facilitate Aboriginal customary tutorship to a child whose situation is taken in charge by the director, and to determine the terms and conditions on which financial assistance may be granted to facilitate tutorship to a child;

WHEREAS, under section 512 of the Act respecting health services and social services (chapter S-4.2), the Government determines, by regulation, the contribution that may be required of users lodged in a facility maintained by a public or private institution under agreement, or taken in charge by an intermediate resource of a public institution or by a family-type resource, and the regulation also determines the amount of personal expense allowance which must be left at the disposal of the user each month;

WHEREAS, under section 159 of the Act respecting health services and social services for Cree Native persons (chapter S-5), the Government determines, by regulation, the contribution that may be required for the beneficiaries who are sheltered in an institution or taken in charge by a foster family;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting financial assistance to facilitate tutorship and Aboriginal customary tutorship to a child was published in Part 2 of the Gazette officielle du Québec of 27 June 2018 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and the Minister responsible for Social Services:

THAT the Regulation respecting financial assistance to facilitate tutorship and Indigenous customary tutorship to a child, attached to this Order in Council, be made.

DOMINIQUE SAVOIE
Clerk of the Conseil exécutif

Regulation respecting financial assistance to facilitate tutorship and Indigenous customary tutorship to a child

Youth Protection Act
(chapter P-34.1, ss. 70.3, 131.19 and 132, par. e.1 and i)

Act respecting health services and social services
(chapter S-4.2, s. 512)

Act respecting health services and social services for
Cree Native persons
(chapter S-5, s. 159)

CHAPTER I ELIGIBILITY FOR FINANCIAL ASSISTANCE

1. Any person referred to in section 70.2 of the Youth Protection Act (chapter P-34.1) and who has been appointed as tutor to a child pursuant to section 70.1 of the Act is entitled to the financial assistance provided for in this Regulation, provided that the following conditions are met:

(1) the child was entrusted to that person pursuant to the Youth Protection Act for a continuous period of at least 6 months before the rendering of the tutorship judgment;

(2) the person provides in fact for the child's upkeep.

Entitlement to financial assistance begins on the date of the tutorship judgment.

2. Any person covered by a certificate issued by a competent authority in accordance with article 199.10 of the Civil Code and section 131.18 of the Youth Protection Act (chapter P-34.1) and attesting that the person is the tutor to a child is entitled to the financial assistance provided for in this Regulation, provided that the following conditions are met:

(1) the child was entrusted to that person pursuant to the Youth Protection Act for a continuous period of at least 6 months before the issue of the certificate;

(2) the person provides in fact for the child's upkeep;

(3) the Indigenous customary tutorship suspended the offices of legal tutor and of person having parental authority with respect to both of the child's parents;

(4) the Indigenous customary tutorship allowed the director of youth protection to end the intervention with the child, pursuant to the Youth Protection Act.

Entitlement to financial assistance begins on the date on which the director's intervention with the child ends, pursuant to the Youth Protection Act.

CHAPTER II APPLICATION FOR FINANCIAL ASSISTANCE

3. A tutor who wishes to benefit from the financial assistance provided for in this Regulation must apply therefor to the institution of his or her territory operating a child and youth protection centre, within 60 days, as the case may be, of the date of the tutorship judgment or the date on which the director of youth protection ends the intervention with the child.

If an application is not submitted within the time prescribed in the first paragraph, financial assistance may, despite the delay, be granted to the tutor if the tutor gives sufficient grounds to explain the delay. Where applicable, financial assistance may be granted retroactively for not more than 6 months as of the date of receipt of the duly completed application.

The application must be made using the form provided by the institution. It must also contain the tutor's name, address and date of birth as well as the name of the child for whom financial assistance is applied for.

4. Every application for financial assistance must be accompanied by the child's certificate of birth and by affidavits from the tutor and a third person certifying that the tutor provides for the child's upkeep, resides in Canada or, as the case may be, is in a situation described in the first paragraph of section 20.

The third person referred to in the first paragraph may not be the tutor's spouse, an ascendant, a descendant or a relative in the collateral line to the third degree of the tutor. Nor may the third person be the spouse of that ascendant, descendant or relative.

For the purposes of the second paragraph, "spouse" has the meaning assigned to it by section 61.1 of the Interpretation Act (chapter I-16).

5. The application for financial assistance for a tutorship granted under section 70.1 of the Youth Protection Act (chapter P-34.1) must be accompanied, in addition to the documents provided for in the first paragraph of section 4, by the tutorship judgment or a copy of the minutes of the judgment.

6. The application for financial assistance for Indigenous customary tutorship must be accompanied, in addition to the documents provided for in the first paragraph of section 4, by

(1) a copy of the certificate issued by the competent authority; and

(2) a written statement by the director of youth protection indicating that the conditions set out in subparagraphs 1 and 4 of the first paragraph of section 2 are met and indicating the date on which the director's intervention with the child ended.

7. Where the certificate of Indigenous customary tutorship certifies that the child has 2 tutors, the application for financial assistance may be submitted by one of them or jointly by both tutors.

If the application is submitted jointly, the affidavits provided for in the first paragraph of section 4 must be filed for each of the 2 tutors. Despite the foregoing, if, at the time of the joint application, both tutors have left Canada to establish their residence in another country, only one of them must file a declaration certifying that the tutor is in a situation described in the first paragraph of section 20.

CHAPTER III TERM AND RENEWAL OF FINANCIAL ASSISTANCE

8. Financial assistance granted for the first time ends on 31 December of the year in which the application is submitted.

9. Financial assistance may be renewed on 1 January of each year until the child reaches 18 years of age.

To maintain entitlement to financial assistance for the following year, the tutor must submit a renewal application to the institution not later than 30 November of the current year. Despite the foregoing, the tutor is not required to submit a renewal application for the year following the year in which the tutor submitted a first application for financial assistance if the application was submitted after 1 June. In the latter case, financial assistance is automatically renewed.

The renewal application must be made using the form provided by the institution, contain the information provided for in the third paragraph of section 3 and be accompanied by the affidavits provided for in the first paragraph of section 4.

Despite the first paragraph, financial assistance may be maintained until the child reaches 21 years of age where the person who acted as tutor continues to provide for the child's upkeep and the child is registered in an educational institution to receive services governed by the Education Act (chapter I-13.3), the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or section 5 of the Act respecting the Ministère de l'Éducation, du Loisir et du Sport (chapter M-15), other than instructional services in vocational training. In that case, the renewal application must be accompanied, in addition to the documents provided for in the third paragraph, by proof certifying that the child is registered in such an educational institution to receive such services.

10. Where a renewal application is submitted after the date provided for in the second paragraph of section 9, financial assistance may, despite the delay, be granted to the tutor if the tutor gives sufficient grounds to explain the delay. Where applicable, financial assistance may be granted retroactively, for the year covered by the application, for not more than 6 months as of the date of receipt of the duly completed application.

11. Where the Indigenous customary tutorship certificate certifies that the child has 2 tutors, the renewal application for financial assistance may be submitted by only one of them, although the initial application was submitted jointly, and vice versa.

If the renewal application is submitted jointly, the affidavits provided for in the first paragraph of section 4 must be filed for each of the 2 tutors. Despite the foregoing, if at the time of the joint renewal application, both tutors have left Canada to establish their residence in another country, only one of them must file an affidavit certifying that the tutor is in a situation described in the first paragraph of section 20.

CHAPTER IV AMOUNT AND PAYMENT OF FINANCIAL ASSISTANCE

12. Except in the case provided for in section 14, a tutor is entitled, as financial assistance for the child's upkeep, to a daily amount obtained by adding the following amounts:

(1) a daily amount determined by subtracting the amount to stand in lieu of monetary compensation provided for in subparagraph *a* of paragraph 4 of section 34 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2) from the net remuneration, established pursuant to paragraph 3 of section 34, and to which the tutor would be entitled under a group agreement entered into in accordance with that Act as a foster family within the meaning of the Act respecting health services and social services (chapter S-4.2);

(2) the daily amount determined as what constitutes reasonable operating expenses in accordance with paragraph 3 of section 34 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements;

(3) a daily amount of \$5 to cover the child's personal expenses.

A daily lump sum of \$2.75 is added to the amount obtained pursuant to the first paragraph as special compensation. The lump sum is adjusted on 1 January of each year in accordance with the Pension Index established in accordance with section 117 of the Act respecting the Québec Pension Plan (chapter R-9).

The amounts referred to in subparagraphs 1 and 2 of the first paragraph and determined pursuant to the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, are published on the website of the Ministère de la Santé et des Services sociaux.

13. The level of services required to determine the amount of compensation provided for in subparagraph 1 of the first paragraph of section 12 is established by the institution at the time of the initial application for financial assistance. Despite the foregoing, it may be reviewed by the institution upon request by the tutor if a significant change, either permanent or chronic, occurs in the condition of the child. Such a situation must be certified by a physician who is a member of the Collège des médecins du Québec.

For such purposes, the institution uses the Form for the determination and classification of support and assistance services provided for as a schedule to the Regulation respecting the classification of services offered by an intermediate resource and a family-type resource (chapter S-4.2, r. 3.1).

The amount adjusted following a review is granted retroactively to the date of receipt of the duly completed application for review.

14. A tutor who, before becoming a tutor, met the following conditions is entitled, as financial assistance for the child's upkeep, to a daily amount of \$90.29, adjusted on 1 January of each year in accordance with the Pension Index established in accordance with section 117 of the Act respecting the Québec Pension Plan (chapter R-9), to which a daily amount of \$5 is added to cover the child's personal expenses:

(1) the child was entrusted to the tutor pursuant to the Youth Protection Act (chapter P-34.1) in a capacity other than as foster family within the meaning of the Act respecting health services and social services (chapter S-4.2);

(2) the tutor's assessment had been made, as the case may be, by a social service centre pursuant to the Act respecting health services and social services for Cree Native persons (chapter S-5) or by a Native community or a group of communities pursuant to an agreement entered into under section 131.20 or 131.23 of the Youth Protection Act.

15. Financial assistance is paid to the tutor in a single monthly payment.

In the case of Indigenous customary tutorship, where 2 tutors are covered by the certificate of Indigenous customary tutorship, the monthly amount of financial assistance is paid to the tutor who submitted the initial application for financial assistance or the renewal

application, as the case may be; it is paid to both tutors if the initial application for financial assistance or the renewal application, as the case may be, was submitted jointly by both tutors.

CHAPTER V REDUCTION AND CESSATION OF FINANCIAL ASSISTANCE

16. The amount of financial assistance granted to a tutor under this Regulation is reduced if the child under tutorship is, under an Act, placed, entrusted or provided with foster care outside the residence of the tutor for a period exceeding 30 consecutive days.

In such a case, the tutor is only entitled, as of the 31st day of the child's stay outside the tutor's residence, to a daily amount of \$19.33. The amount is adjusted on 1 January of each year in accordance with the Pension Index established in accordance with section 117 of the Act respecting the Québec Pension Plan (chapter R-9).

Financial assistance is entirely granted again as of the date on which the child returns living with his or her tutor.

17. An institution that takes charge of a child who is in the situation described in section 16 must so inform the institution that pays financial assistance under this Regulation. It must also inform it of the date on which the child returns living with his or her tutor.

18. If a child is in the situation described in section 16, no contribution provided for in section 512 of the Act respecting health services and social services (chapter S-4.2) or in section 159 of the Act respecting health services and social services for Cree Native persons (chapter S-5) may be required from the child's tutor or parents.

19. Entitlement to financial assistance ends as soon as

- (1) the child dies;
- (2) the child reaches 18 years of age or, if financial assistance was maintained beyond 18 years of age pursuant to the fourth paragraph of section 9, the child is no longer in the situation referred to therein or reaches 21 years of age, whichever occurs first;
- (3) at least one of the child's parents has been reinstated as tutor;
- (4) the tutor ceases to provide for the child's upkeep;

(5) the tutor dies;

(6) tutorship or Indigenous customary tutorship, as the case may be, ends for other reasons, including the tutor's replacement; or

(7) the tutor leaves Canada to establish his or her residence in another country, unless the tutor is in one of the situations described in the first paragraph of section 20.

The tutor is required to notify the institution in writing as soon as one of the situations referred to in subparagraph 1 to 4, 6 and 7 of the first paragraph occurs and, if leaving Canada, the tutor must do so before the tutor leaves.

Despite the first paragraph, if, in the case of Indigenous customary tutorship, the application for financial assistance was made jointly by both tutors, financial assistance ends, in the cases provided for in subparagraphs 4 to 7 of the first paragraph, only if both tutors are in one of the situations described therein.

20. Financial assistance granted to a tutor who leaves Canada to establish his or her residence in another country is maintained if the tutor

(1) is registered as a student in an educational institution in Québec or Canada while pursuing a program of study outside Canada;

(2) is a trainee outside Canada at a university, an institution affiliated with a university, a research institute, a government or international body or an enterprise or agency affiliated with such an institute or body;

(3) is employed by the government of Québec, the government of another province in Canada or the government of Canada and is posted outside Canada;

(4) holds employment outside Canada on behalf of a legal person, a partnership or an organization having its head office or a place of business in Québec or Canada to which the tutor is directly accountable;

(5) works abroad as an employee of a non-profit organization having its head office in Canada, under an international aid or cooperation program; or

(6) is a member of the Royal Canadian Mounted Police or the Canadian Forces and is posted outside Canada.

A tutor who is in one of the situations referred to in the first paragraph must, to take advantage of the right to maintain financial assistance, provide the institution with a supporting document.

If, in the case of Indigenous customary tutorship, the application for financial assistance was made jointly by both tutors and both tutors left Canada to establish their residence in another country, only one of the tutors must be in one of the situations described in the first paragraph to maintain financial assistance.

21. A tutor who ceased receiving financial assistance because the tutor established his or her residence elsewhere than in Canada and returns to Canada to establish his or her residence therein, may file a new application for financial assistance in accordance with Chapter II.

In such a case, entitlement to financial assistance begins on the date of receipt of the duly completed application.

CHAPTER VI INSTITUTION'S RESPONSIBILITIES

22. Any institution operating a child and youth protection centre must ensure that assistance is provided to any person wishing to apply for financial assistance and inform that person of the rights and obligations under this Regulation.

23. An institution that receives an application for financial assistance must ensure that the application contains all the information and is accompanied by all the documents necessary for making the decision. If it finds that that is not the case, it must communicate with the tutor and give the tutor the opportunity to provide the relevant information or documents.

The institution ascertains the admissibility of the application for financial assistance, determines the amount to which the tutor is entitled and pays the financial assistance.

The institution must give the reasons and inform the tutor in writing of any decision made pursuant to this Regulation.

CHAPTER VII TRANSITIONAL AND FINAL

24. Every person who, on the date of coming into force of this Regulation, provides in fact for the upkeep of a child for whom a certificate issued by a competent authority in accordance with article 199.10 of the Civil Code and section 131.18 of the Youth protection Act (chapter P-34.1) certifies that the person is the tutor to the child is entitled to the financial assistance provided for in this Regulation, provided that the following conditions are met:

(1) the Indigenous customary tutorship suspended the offices of legal tutor and of person having parental authority with respect to both of the child's parents;

(2) the conditions set out in subparagraphs 1 and 4 of the first paragraph of section 2 of this Regulation were met at the time concerned.

In such a case, entitlement to financial assistance begins on the date of coming into force of this Regulation.

A person who wishes to qualify for financial assistance must apply within 60 days following the date of coming into force of this Regulation. Chapter II applies to such an application, with the necessary modifications.

25. Financial assistance granted pursuant to the Regulation respecting financial assistance to facilitate tutorship to a child (chapter P-34.1, r. 5) which a person is receiving on the date of coming into force of this Regulation and that concerns a child 18 years of age or older registered in an educational institution to receive instructional services in vocational training governed by the Educational Act (chapter I-13.3), the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or section 5 of the Act respecting the Ministère de l'Éducation, du Loisir et du Sport (chapter M-15) is maintained.

THAT financial assistance continues to be governed by the Regulation respecting financial assistance to facilitate tutorship to a child, except as concerns

(1) the amount of the financial assistance, which is determined in accordance with sections 12 and 13 of this Regulation; and

(2) the cessation of the financial assistance, which takes place upon the occurrence of one of the situations referred to in section 19 of this Regulation or not later than 31 December 2024.

26. The Regulation respecting financial assistance to facilitate tutorship to a child (chapter P-34.1, r. 5) is revoked.

27. This Regulation comes into force on 1 February 2024.

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Gouvernement du Québec

O.C. 1915-2023, 20 December 2023

Youth Protection Act
(chapter P-34.1)

Act respecting health services and social services
(chapter S-4.2)

Act respecting health services and social services
for Cree Native persons
(chapter S-5)

Financial assistance to facilitate the adoption and Indigenous customary adoption of a child

Regulation respecting financial assistance to facilitate the adoption and Indigenous customary adoption of a child

WHEREAS, under section 71.3 of the Youth Protection Act (chapter P-34.1), an institution operating a child and youth protection centre may, in the cases and in accordance with the criteria and conditions prescribed by government regulation, grant financial assistance to facilitate the adoption of a child;

WHEREAS, under section 131.19 of the Act, financial assistance may, in the cases and on the terms and conditions prescribed by government regulation, be granted by an institution operating a child and youth protection centre to facilitate in particular Indigenous customary adoption of a child whose situation is taken in charge by a director of youth protection;

WHEREAS, under paragraphs e.1 and f of section 132 of the Act, the Government may make regulations in particular to determine the cases in which and the terms and conditions on which financial assistance may be granted to facilitate Aboriginal customary adoption of a child whose situation is taken in charge by the director, and to determine in what cases, according to what criteria and on what conditions an institution operating a child and youth protection centre may grant financial assistance to facilitate the adoption of a child;

WHEREAS, under section 512 of the Act respecting health services and social services (chapter S-4.2), the Government determines, by regulation, the contribution that may be required of users lodged in a facility maintained by a public or private institution under agreement, or taken in charge by an intermediate resource of a public institution or by a family-type resource, and the regulation also determines the amount of personal expense allowance which must be left at the disposal of the user each month;