

OVERSIGHT COMMITTEE (OC)
April 8, 2008
Quality Hotel, Calgary, Alberta

Chair: Mayo Moran

James Ehmann	Church Representative
David Iverson	Church Representative
Len Marchand	Claimant's Counsel
David Paterson	Claimant's Counsel
Luc Dumont	Government of Canada Representative
Alison Molloy	Government of Canada Representative
Rosemarie Kuptana	Inuit Representative
William Wuttunee	AFN Representative
Dan Ish	Chief Adjudicator
Jeffery Hutchinson	IAP Adjudication Secretariat
Irene Fraser	IAP Adjudication Secretariat (Recorder)

Guest: Deputy Chief Dan Shapiro to present the Technical Sub-Committee Report

1. Approval & Additions to the Agenda
 - a) List of Experts
 - b) Protocol for Adding and Deleting from the List of Experts
 - c) POI Report
 - d) Participation in Sub-committees

2. Approval of February 26, 2008 Minutes
 - i. Page 4, change "Resolution Manager" to Canada's Representative.
 - ii. Page 4, #14, note that the conference call was cancelled.
 - iii. Correct the numbering.
 - iv. Page 6, #21, change the word decisions in the second line to hearings.

v. Page 4, # 9, move the sentence regarding volunteer work to the end of the last paragraph.

Approved with changes.

3. Matters Rising from the Minutes

a) Form Fillers

The Summative and Evaluative Report on the Form Filler Program will be used as a basis for consultation within and outside the department.

Decision: A copy will be given to members of the Oversight Committee before the next meeting.

b) Oversight Committee Independence (Governance)

Decision: Dan will present a report at the next meeting on roles of Oversight, Secretariat and CAO citing the various provisions in IAP and the decision of the courts.

c) Reopener Files

The initial purpose of the discussion note previously presented was to have a process and guidance to put DR LO3 awards in line with IAP LO awards, not to redo the decision. Since chronic inability to obtain or retain employment (LO3) has already been determined by the adjudicator, it will only be in rare circumstances that an expert assessment will be required, such as if the adjudicator incorrectly found LO3 without documentation. This can be determined in the suggested pre-hearing conference call. Annex A will be included with the proposal. It will not be Canada's intention to forego the expert assessment as set out in Schedule D for an expert assessment at LO 4 & 5 if it is required. There will not be provision for Canada to review the adjudicator's decision.

Decision: Agreed to go with Option 6. The Secretariat will produce a document describing the reopening process that will go forward. A letter to claimants/claimant counsel will be drafted and e-mailed to all members before it goes out.

4. Chief Adjudicator's Report

- The first quarterly report was sent February 29th. Dan Ish acknowledged the assistance of Jeffery Hutchinson and Monique Bond. Once the Courts receive the report it will be distributed by e-mail to Oversight members.
- Transcription policy – Deputy Chief Peggy Blair is reviewing the current policy. A document setting out choices for consideration of the Oversight Committee will be presented at the next meeting.

- Staffing the IRSAS is slow but short term demands for personnel have been met. Jeff Hutchinson and Monique Bond are using a strategy of “swat teams” to move the files forward. The first effort was with admissions at Crawford. Files will move more quickly as staff demands are met.
- RFPs for a Deputy Chief and Adjudicators are posted on MERX. The screening of the Deputy Chief is anticipated for May.
- A functional website open to the public is needed and receiving attention within the Ottawa office. Decision access without prejudicing people’s private interests is necessary.
- There is not a court ruling on combining ADR and IAP decisions to meet the 2500 target but it is anticipated.

5. Executive Director’s Report

- ADR transfers to IAP are prioritized according to the Schedule D, not original date. However, if the case is transferred from DR the information and documents should be in place and could potentially move through the process more quickly.
- A high number of cases were at Crawford. An IT problem was holding up moving the cases forward. However, a swat team recently moved approximately 1000 cases to case management. A swat team is now working in case management. The goal is to get the files to the mandatory document stage. Once the “next steps letter” goes out it is dependent on claimant counsel and self-represented claimants to respond to the request for documents in a timely way.
- Jeff Hutchinson had a positive meeting with the Policy Advisor to the Minister.
- 733 DR claims have moved to case management. Every effort is being made to clear the remaining 35.
- There were delays in advertising the RFPs. The ad ran in the major newspaper on the past weekend. The MERX posting is extended by a week, ending April 28th.
- Although we have the resources, i.e. adjudicators, to move files, the files are not ready and current adjudicators are under utilized. It is anticipated that by September there will be a hearing capacity of 250 or more per month. Consequently, the adjudicator training planned for June is moved to September 14 to 19, 2008.
- The process maps are to be finalized next week.
- A risk management framework on IRSAS meeting its goals is underway.

- Final letters to claimants for non-admission to IAP (non-admit letters) slowed down pending a revision of the letters to reflect plain language and a media strategy. They will be going out within a week.
- The finance backlog is cleared up. Problems are to be reported to the Executive Director.
- Formation of the screening and interview boards must be put in place shortly.

Decision: Members are to give their availability for screening and interview boards to Jeffery Hutchinson. Jeff Hutchinson will prepare a time line. The preference is for two separate selection boards.

Decision: The next meeting will include a discussion about the process in case management. Concern was expressed about the tone and requirements of the next steps letter.

6. Technical Sub-Committee Report

The committee met by conference call on March 14.

- The committee is preparing a general guidance paper for counsel on document gathering for complex track files.

Decisions:

a) The possibility of the IRSAS contracting with an economist or actuary to offer advice at the next meeting will be explored.

b) A list of economists for adjudicator's use, including francophone names is to be prepared. Experts will not be expected to meet with claimants. Potential names are to be submitted over the next two days and vetted shortly afterwards. Traditional income loss will be considered as well as the factors of society at large.

- There is ongoing discussion on legal fee payment if a claimant fires counsel prior to the decision.
- Although it allow for negotiation, there is a concern that agreement of the facts between counsel and the government could bind the adjudicator.
- The parties will meet bilaterally to discuss disclosure of documents and admission of knowledge in student on student claims. If requested, the chief Adjudicator's Office could provide someone to lead the discussion.
- There is no time period in the IAP for reviews. The Committee is conferring and will report back.

- The Actual Income Loss Guidance Paper will be circulated by e-mail in advance of next meeting. Members are to signal their vote by e-mail.

The Technical Sub-committee will meet in person the day prior to the next OC meeting.

7. Confidential Distribution of Canada's Comments on Decisions

Only Canada has access to all the decisions. The same opportunity is not available to the other parties. While there is recognition of the need for balance, the document is valuable to the Chief Adjudicator for awareness of trends out of step with the Model (Agreement) and of problems that need to be addressed with adjudicators. The Chief Adjudicator is responsible for consistency and interpretation of the Agreement. The Deputy Chiefs will assist with quality control.

To date, the comments all reference DR, not IAP decisions.

A suggestion was made that comments might be restricted to two areas: 1) direct practices of adjudicator errors or delays and 2) interpretive issues.

Decision: The item is to be on the next agenda for follow-up discussion.

8. Schedule P

Presently Schedule P restricts claimants who were not residents of a residential school, i.e. day school or visitor to an IRS, or whose residency cannot be confirmed from collecting CEP. Eligibility could be available at a later date. This is a narrow legal problem which can be easily corrected but requires final authority from NAC. Luc Dumont is responsible for carrying this forward but would like the support of the Oversight Committee.

Decision: Luc Dumont will draft a resolution and e-mail it to Oversight members. They can respond by email. If there is agreement, Luc will take it to NAC.

9. Movement of Files from DR to IAP to DR

Decision:

- Claimant and claimant counsel can request a return to DR. The reason will be stated in writing. A reasonable explanation would be that the claimant was not given the opportunity to choose between DR and IAP.

- Requests/applications for leave are to go to the Chief Adjudicator for decision. It will not be advertised.

- OC claimant counsel representatives will relay the information to their colleagues.

- Requests will be accepted to June 30th, 2008.

10. List of Experts

Decision: The Roster of Experts established for CARG is accepted for use in IAP.

11. Protocol for Adding and Deleting from the List of Experts

The Protocol will be on the next agenda.

12. Participation in Sub-committees

The Oversight Committee will strike sub-committees as required. The broadest possible view will be sought. However, participation is the choice of each party.

13. Persons of Interest Report

A memo from Deputy Chief Rodger Linka was circulated. This issue is to be discussed at the next meeting.

14. Next Meeting Location and Date

The next meeting will be May 21st in Vancouver. The following meeting will be in Vancouver the last week of July, tentatively July 29th. Members will check their calendars and let Irene Fraser know.

There will be a meeting on Sept 9th in Regina.