

January 30, 2012

Important Developments Regarding Short Form Decisions (SFDs) – Schedule “P” Situations

At the January 17, 2012 Oversight Committee Meeting, the parties agreed to expand the use of Short Form Decisions (SFDs) in cases where a claimant was a non-resident¹ at a listed IRS (where a Schedule “P” release was required). Where all parties and the adjudicator agree, SFDs will now be available for use in non-resident cases where all elements of a SFD are otherwise in place. This change is now in effect.

The SFD remains the same for “resident” claimants, except that the claimant’s signature spot at the end will change to reflect the claimant’s status as a “Resident.” However, in Schedule “P” situations, the adjudicator will simply check off a box in the electronic form, which will automatically enter the following:

(1) A new paragraph (a) on page 1 of the SFD:

The claimant was accepted into the Independent Assessment Process as a non-resident Claimant and signed a Schedule P (Full and Final Release) to the Indian Residential Schools Settlement Agreement (IRSSA) as per Article 11.02 of the IRSSA. I find that the Claimant is a "non-resident claimant" as defined by Article 1.01 of the IRSSA.

(2) A revised “Acceptance by Non Resident Claimant.”

Acceptance by Non-Resident Claimant:

I acknowledge and declare that:

- (a) I have received and fully understood the independent legal advice provided to me by my lawyer with respect to this Decision;
- (b) I am aware that I have the right to ask for a full Decision from the Adjudicator, setting out the reasons for the Decision. However, I give up this right in order to allow for this Short Form Decision;
- (c) I signed Schedule “P” to the Indian Residential Schools Settlement Agreement;
- (d) I was accepted into the Independent Assessment Process as a non-resident

¹ Adjudicators and parties should familiarize themselves with the definition of “non-resident claimant set out at Article One 1.01 of the IRSSA: “**Non-resident Claimants**” means all individuals who did not reside at an Indian Residential School who, while under the age of 21, were permitted by an adult employee of an Indian Residential School to be on the premises of an Indian Residential School to take part in authorized school activities prior to December 31, 1997. For greater certainty, Non-resident Claimants are not Class Members or Cloud Class Members;”

claimant;

(e) I fully understand the terms of Schedule "P", and have signed this Schedule "P" voluntarily for the purpose of obtaining the benefit of the Independent Assessment Process;

(f) I have sought and obtained legal advice in respect of Schedule "P".

The new electronic version of the SFD and revised Step by Step Instructions are available on the "Publications" page of the IAP Website: <http://www.iap-pei.ca/pub-eng.asp>

The new Appendix "A" to Practice Direction 2 (PD-2), consisting of one version to be used for resident claimants and a second version to be used for non-resident claimants, is attached to this communication. It is also available on the "Directives" page of the IAP website: <http://www.iap-pei.ca/lc-dir-eng.asp>

Questions related to the new SFD may be directed to the Crawford Help-Desk: 1-877-739-8935.

Dan Shapiro

Deputy Chief Adjudicator