

Indian Boarding Homes Program Protocol for Payment of Individual Legal Fees

Background

As part of the Indian Boarding Homes Program settlement, lawyers who assist Claimants with their claims are entitled to legal fee payments from Canada. To receive a payment, the fees / lawyers must meet the following criteria:

1. Legal fees or disbursements will only be paid by Canada in relation to Category 2 applications.
2. The lawyer is entitled to an amount equal to 5% of the Claimant's Category 2 payment, plus applicable taxes.
3. Lawyers may request on motion to the Federal Court an additional amount paid by Canada of up to 5% of the Claimant's Category 2 payment, plus applicable taxes.
4. No amount may be charged to Claimants in respect of compensation under this settlement or for any other advice relating to this settlement except with prior Court approval.
5. Lawyers must be licensed to practice law in a province and/or territory of Canada and be in good standing.

The disbursement protocol of legal fees to lawyers who assist Class Members is outlined below.

Legal Fee Payment Procedures

1. The Claims Administrator will generate a list of applications that meet both of the following criteria:
 - a. Category 2 applications where Claimants were determined to be eligible for compensation
 - b. Category 2 applications where a licensed lawyer assisted the Claimant
2. The Claims Administrator will calculate the 5% amount of the Claimant's Category 2 payment, plus applicable taxes, and issue payment to the lawyer listed on the form through electronic payment.

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3. If a Claimant requests reconsideration of their Category 2 application and is entitled to higher compensation following assessment, the lawyer who assisted the claimant with their reconsideration request will be paid the difference between 5% of the higher compensation and the original compensation amount.
 4. The Claims Administrator will conduct due diligence prior to the issuance of payments to confirm lawyer eligibility to receive the 5% amount. In instances of concern regarding eligibility (for example, where a license to practice law is under question), the Claims Administrator will withhold payment until the completion of additional due diligence is undertaken, which may include the request for additional documents to support the existence of the lawyer's licence and / or good standing). If the Claims Administrator's concerns regarding eligibility remains, a Final Denial Notice will be sent to the lawyer.

Request for Additional Legal Fees

Pursuant to section 11.02(1) of the Settlement Agreement, lawyers who assist Claimants with their Category 2 claims may request on written motion to the Federal Court up to an additional 5% of the Claimant's Category 2 Payment plus applicable taxes for legal fees and/or disbursements to be paid by Canada in accordance with the guidelines agreed upon by the Parties and approved by the Court. It is anticipated that in most cases a fair and reasonable fee will not exceed 5% of the Claimant's Category 2 Payment, considering the limited risk to counsel and the uncomplicated nature of the claims process, and that usually no additional amounts will be warranted.

1. Lawyers who believe there are circumstances which would merit fees above the standard 5% may prepare and serve a motion to the Federal Court for the fees and/or disbursements they seek. Canada will indicate whether it consents or opposes the motion after being served.

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2. Motions for additional fees and/or disbursements will be reviewed taking into account the following:
 - a. Amount already paid on account of fees;
 - b. Complexity of the matter;
 - c. Time spent
 - d. Necessary disbursements; and,
 - e. Other exceptional factors.

 3. If successful in their motion, lawyers will provide the Court Order to the Claims Administrator. Upon the receipt of orders from the Federal Court, the Claims Administrator will issue additional payments to the lawyers whose requests were approved by the Court.