

COMMUNITY NOTICE

June 23, 2015



Kwilmu'kw Maw-klusuaqn Negotiation Office
Mi'kmaq Rights Initiative

Our Rights. Our Future.

Ottawa's Move to Cut Social Assistance Rates and Supplemental Benefits: What you need to know

In 2011 the federal government informed Chiefs from the Maritime Provinces that the Department of Aboriginal Affairs and Northern Development (AANDC) planned to align social assistance rates in Nova Scotia, New Brunswick, and Prince Edward Island with provincial social assistance rates for non-Native citizens.

This would result in significant cuts to social assistance rates for First Nations People, including the removal of certain subsidies previously offered to our People, such as the very important shelter and utilities subsidies, and claw-back of the National Child Benefit. It also backtracks on Canada's 20+ years of recognition that First Nations should be able to adapt provincial rates and standards to reflect community needs and circumstances.

In response, the Assembly of Nova Scotia Mi'kmaq Chiefs joined Chiefs from New Brunswick and Prince Edward Island mounted a legal challenge in an attempt to stop the Harper Government from implementing these cuts.

The Chiefs were successful in obtaining an injunction to stop the federal government from implementing cuts, and later won a court challenge before the Federal Court. The federal court judge found that the proposed cuts to social assistance would harm our People and the government had failed to fully study those impacts. It also found that the Harper Government did not adequately consult First Nations leadership prior to announcing their intentions to cuts rates and supplemental benefits.

Unfortunately, the Harper Government successfully appealed the Federal Court's decision and in January 2015, the Federal Court of Appeal decided that the federal government did have the right to implement their proposed cuts unilaterally and without studying impacts.

The Chiefs from Nova Scotia, New Brunswick, and Prince Edward Island are currently seeking a stay of the Federal Court of Appeal's decision as well as a leave to appeal the decision before the Supreme Court of Canada.

In mid-May 2015, all communities in the case received a letter advising that, based on the Federal Court of Appeal decision, AANDC would be seeking to implement provincial rates and standards as of April 1, 2016 and that it would not be continuing with any comprehensive impact study.

What does it mean to "align" First Nations' rates with the Maritime Provinces?

If AANDC implements their proposed cuts by aligning rates to those of Nova Scotia, New Brunswick, and Prince Edward Island our community members can expect deep cuts to their social assistance rates.



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The plan put forward by AANDC would discontinue any supplemental benefits that fall outside the basic benefits received by non-Natives in the province. This includes supplements to programs, like shelter allowances for example, which have been offered to First Nations living on-reserve under federal policy. This means that, First Nations would not be receiving identical treatment to people in the provinces, even though that it was AANDC says it is trying to do.

This 'alignment' would also end about three decades of the government of Canada recognizing that First Nations have a role in adapting rates and standards to reflect community needs and circumstances. In fact, from 1998 to 2007, AANDC funded a \$15M project, working in partnership with our communities, to create a Mi'kmaq / Maliseet Social Assistance Manual that would be based on community needs and circumstances.

How much will the cutbacks be?

People in our communities receiving social assistance can expect to see rates for families fall to \$849 a month, and to \$529 a month for single individuals.

In addition to the cuts in social assistance rates important supplemental benefits will be cut despite the fact that non-Aboriginal social assistance recipients will still receive these benefits from their provincial governments. There will also be significant cuts to other allowances such as diet supplements for persons with diabetes and pregnant and nursing mothers.

Also, instead of the Band paying shelter and power bills directly out of the social budget, individuals and families will be expected to pay rent and bills from their monthly allowances along with still meeting their food and personal needs. Recipients will receive one monthly cheque instead of weekly or bi-weekly cheques and will be expected to budget for the entire month.

Does the federal government know the hardship their decision will cause?

Yes, they do. In addition to sworn testimony provided by Chiefs from the region, AANDC has also acknowledged in writing the harm these cuts would inflict upon our people.

AANDC briefing notes that were prepared for the Minister stated that they anticipated increased poverty and hardship, as well as increased instances of child apprehension by child welfare officials. They also anticipated complaints and protests by First Nations in reaction to the cuts and that the cuts would affect Band governments' ability to repay loans for social housing and impact Bands' financial management.

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What does “leave to appeal” and “a stay of the Federal Court of Appeal’s decision” mean?

A hearing before the Supreme Court of Canada is not automatic as the court only hears cases that are of national importance. As such, an application, or a “leave to appeal”, needs to be filed making the argument that our case is of national importance and should be heard by the Supreme Court.

A “stay” is like the earlier injunction; it stops the government from implementing cuts to social assistance rates until a decision is made by the Supreme Court decides the case.

Has the federal government provided notice as to when they will implement their cuts to social assistance?

Yes. AANDC Minister Bernard Valcourt has indicated in a letter to the Assembly, and Chiefs from New Brunswick and Prince Edward Island that he intends to implement the cuts to social assistance rates by April 1, 2016. This assumes that our leave to appeal and stay of the Federal Court of Appeal’s decision will not be successful.

If the Supreme Court of Canada agrees to hear the case and grants a stay of the Federal Court of Appeal’s decision the federal government’s cuts will not be implemented until the high court delivers its final decision. It is not possible to accurately state how long the Supreme Court will take to render a decision, but the entire process could take another 1 to 2 years.

What happens if the Supreme Court of Canada decides not to hear the appeal?

That would be very unfortunate, but it would NOT be the end of the matter. There is a federal election coming up in October 2015 and there very well could be a change in government. A government not led by Stephen Harper may not want to take the same approach to social assistance and could very well change directions. Legal counsel advises that, even if we end up stuck with the Federal Court of Appeal decision, there are ways that decision can be leveraged against the government to our benefit. The Chiefs in Nova Scotia and New Brunswick have met this month to discuss next steps and are developing plans for moving forward, keeping in mind both best case and worst case scenarios.

The Assembly of Nova Scotia Mi'kmaq Chiefs and KMKNO are committed to updating our member communities on the status of this file via our website, our Facebook page, and community notices and meetings. If you have further questions please feel free to contact KMKNO at 1-888-803-3880 or online at www.mikmagrights.com