



Reform of the First Nations Child & Family Services Program

Regional Engagement Sessions on the Draft Agreement
August 2024



Background

- In January 2016, the Canadian Human Rights Tribunal (CHRT) found that Canada was discriminating against First Nations children and families in its provision and funding of the First Nations Child and Family Services (“FNCFS”) Program and narrow application of Jordan’s Principle.
- The CHRT ordered Canada to work with the Parties to the CHRT complaint to completely reform its FNCFS Program and fully implement Jordan's Principle.

Direction from First Nations in Assembly

Resolution no.40/2022

- Negotiate a final settlement agreement (FSA) on Long-Term Reform of First Nations Child and Family Services.
- Ensure that funding and other mechanisms is based on substantive equality, and best interests of the child.
- Increase funding commitments above the currently allocated \$19.807 billion, over 5 years and beyond.
- Seek approval from First Nations leadership.

Direction from First Nations in Assembly

Resolution no.86/2023

- To negotiate a final settlement agreement (FSA) on Long-Term Reform of First Nations Child and Family Services.
- Conduct regional engagement with First Nations leadership
- Seek approval from First Nations leadership

FSA at a Glance: Long-Term Reform of FNCFS

- A flexible funding mechanism that:
 - Addresses child, family and community wellness priorities of First Nations;
 - Is adjusted annually by the Consumer Price Index (CPI), population growth, and remoteness
 - Addresses long standing funding gaps such as lack of prevention and capital funding
 - Mitigates the drivers of First Nations overrepresentation in child and family services
- Highlights of the \$47.8 billion commitment for reform:
 - Proposing ten years of funding ringfenced in a special purpose allotment (SPA)
 - Includes funding for First Nations-led Secretariats to support FNCFS Service Providers with implementation of data and CFS best practices
 - Additional \$2 billion housing investment four years (including 2024)
 - Includes a dispute resolution mechanism to replace oversight of the CHRT

Reformed FNCFS Funding: Baseline for Agencies

- Baseline Funding is 2022-23 fiscal year's Operations and Maintenance (O & M) actual expenditures
- O&M includes:
 - intake and investigation;
 - least disruptive measures/tertiary prevention;
 - legal fees;
 - building repairs;
 - child service purchase.

**Based on 2022-23
Fiscal year's
expenditures**

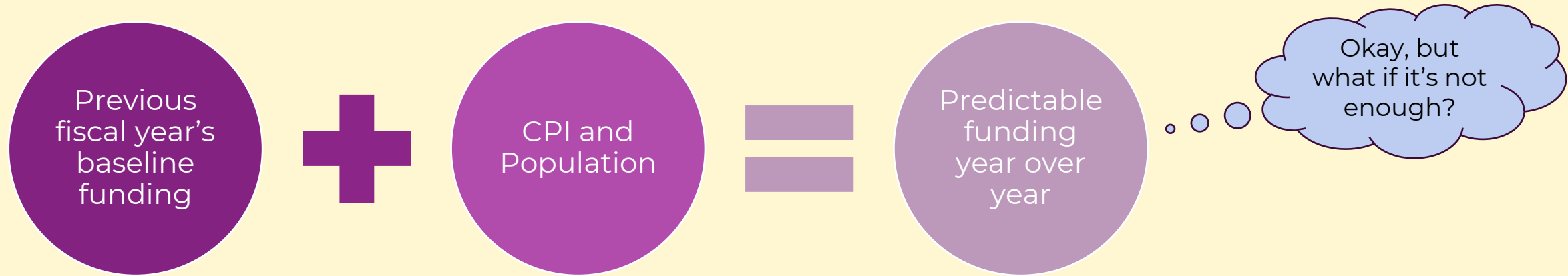


**CPI and
Population**



**Current
Fiscal Year
Budget**

FNCFS service provider funding adjustment



- Service providers facing funding shortfalls due to events or reasons outside of the control of the provider can be made in writing to Indigenous Services Canada. Those requests must be responded to within 30 days or less for urgent requests.

Funding Adjustment requests are available to:

- ✓ FNCFS Agencies for provincially legislated services
- ✓ First Nations for prevention

The duration of the funding adjustment request:

- ✓ Single year
- ✓ Multiple years

Reformed FNCFS Funding Elements

Capital:

\$1.92 billion over 5 years available for the purchase or construction of infrastructure to deliver FNCFS services

Household supports:

\$25.5 million dispersed to First Nations to meet basic needs of families

First Nations Representative Services:

Funding equaling \$1.12 billion over 5 years to advocate for First Nations in CFS matters (Band Representative Services in Ontario)

Post-Majority Support Services:

\$795.8 million over first 5 years to support youth aging out of care (i.e., transition supports)

The "Top-ups"

RESULTS

Supports the implementation of the performance measurement framework for capturing child and family wellbeing data

5% of baseline

INFORMATION TECHNOLOGY

Supports purchase or upgrade of IT requirements

6% of baseline

EMERGENCY FUND

Funding to support urgent FNCFS Service Provider responses arising from unanticipated circumstances

2% of baseline

Focus on Prevention Allocation

Funding for primary and secondary prevention will be provided to First Nations.

First Nations have the option to allocate prevention funding to authorized FNCFS service providers.

FNCFS Agencies will draw from their Baseline Funding to conduct least disruptive measures as required under provincial legislation.

Least Disruptive Measures vs. Prevention Funding

Least Disruptive Measures

- Intensive intervention provided by CFS professionals within an agency setting.
- Meets provincial/territorial child welfare mandates
- Targeted to family preservation/reunification
- Only agencies will be funded for these activities.

Prevention services

- Provided by First Nations to mitigate the drivers of overrepresentation of First Nations children in care.
- Services available within the community.
- Prevention not prescribed so First Nations can customize services according to priorities.
- First Nations can choose to have their affiliated agency provide prevention if desired.

Focus on Capital and Housing Investments

- ISC will continue to process capital funding requests received under CHRT 41 on or before March 31, 2025.
- The Draft Settlement Agreement includes provisions for a new capital funding implementation plan using community capital planning processes.
- FNCFS Housing:
 - A one-time \$1.79 billion investment directly to First Nations for the purchase, construction and/or renovation of homes needs over a period of four years, starting in 2024-25.
 - Funding is to be used to:
 - Prevent children from becoming involved with FNCFS for reasons of inadequate housing.
 - Support the reunification of families where housing is a barrier.

Allocation of Funding

FIRST NATIONS

- Prevention
- Information Technology
- Results
- Household Supports
- Post Majority
- First Nations Representative Services
- Housing

Shared

- Emergency
- Capital
- Remoteness

CFS AGENCIES

- Baseline funding includes:
 - least disruptive measures;
 - child service purchase (e.g. psychologist, educational supports);
 - intake and investigation;
 - legal fees
 - Building repairs.

First Nations served by the Province

FUNDING TO THE PROVINCE

Baseline Funding
(same as agency allocations)

FUNDING TO FIRST NATIONS

Prevention
Emergency
Information Technology
Results
Household Supports
Post Majority
Representative Services
Housing
Capital
Remoteness



Performance Measurement and Accountability

Child in Care Indicators and Community Wellbeing Plans



How are children in care doing?

- ✓ knowledge of Indigenous language
- ✓ connection to land
- ✓ belonging to community
- ✓ participation in community
- ✓ participation in spiritual ceremony
- ✓ supported by community-based health and wellness services
- ✓ accessing early learning and childcare
- ✓ attaining numeracy and literacy goals
- ✓ have post-secondary education aspirations

Pathways to and through care



Agency to collect information for analysis by agency quality assurance department or regional secretariat. First Nations will receive analysis to support identification of priority wellness areas for children receiving protection services. Indigenous Services Canada will also receive this data to include in their reporting to Parliament.

First Nations Community Information

Community-based services

- What health and social services exist within the community?

Childcare and schools

- Are there accessible childcare and schools?

Livable income and affordability

- What is the average income relative to the regional cost of living?

Housing conditions

- Are people living in homes in need of major repair or in overcrowded conditions?

Water

- Are there homes with potable water?

Child and Community Wellness Plan



Example...

Binding Dispute Resolution

- Once Tribunal approves the agreement, its jurisdiction will end in relation to the FNCFS Program.
- The agreement will establish a binding dispute resolution process.
- Available to First Nations and agencies, but not mandatory.
- Provides more flexible remedies than a court.
- Faster and culturally appropriate hearings and results.
- Saves money, including lawyer fees and expert fees.
- Preserves relationship between First Nations / Agencies and Canada.

Binding Dispute Resolution

- Agreement calls for a legislative Dispute Resolutions Tribunal, overseen by a President.
- Administrative support and registrar funded by Canada.
- For the President to have authority to make binding orders, they must be appointed through a legislative process.
- The Federal Government does not have sole discretion to appoint the President; it will be done in consultation with the Parties.
- President will be a First Nations person with expertise in justice practices.
- President will select the roster of Adjudicators.

The Legal Process and Next Steps

**Agreement
in Principle**

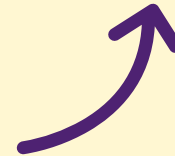
**Consent
Order on
Immediate
Measures**

**Draft
Settlement
Agreement**

**Regional
Engagement
and approval
of FSA via. SCA**

**Approval
by CHRT**

We are here





Closing Remarks

Questions? Email social.development@afn.ca

