

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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March 26, 2021

Honourable John Horgan
Premier of the Executive Council
Via Email Only: premier@gov.bc.ca

Honourable Mitzi Dean
Minister of Children and Family Development
Via Email Only: MCF.Minister@gov.bc.ca

Honourable Nicholas Simons
Minister of Social Development Poverty
Reduction
Via Email Only: SDPR.Minister@gov.bc.ca

Honourable Murray Rankin
Minister of Indigenous Relations and
Reconciliation
Via Email Only: IRR.Minister@gov.bc.ca

RE: UBCIC Resolution 2021-17 “Decolonizing the Persons with Disabilities Designation (PWD) Application and Appeal Process”

Dear Premier Horgan and Ministers:

We are writing with respect to Union of BC Indian Chiefs (UBCIC) Resolution 2021-17 “Decolonizing the Persons with Disabilities Designation (PWD) Application and Appeal Process,” which was presented, affirmed and endorsed by consensus at the UBCIC Chiefs Council on February 25, 2021 (enclosed).

By Resolution 2021-17, the UBCIC Chiefs Council addressed how the current Persons with Disabilities (PWD) application forms and processes related to adjudication and appeals do not adequately support, respect, or respond to the cultural, emotional, mental, and physical needs of Indigenous applicants. The UBCIC Chiefs Council fully supports the set of critical recommendations put forward by Kelly Dede-Marshall, advocate, to reform the PWD application and appeal process so that systemic barriers are removed, and cultural differences are considered to encourage clarity and understanding of the applicant’s experience. Oftentimes during the intake process, Indigenous applicants do not disclose the full depth of their struggles and experiences because cultural ways often do not permit this – or they may not feel safe or comfortable to do so – ultimately resulting in insufficient descriptions of their disabilities and circumstances, and the rejection of their PWD designation.

Replacing the current processes of intake, assessment, adjudication, and appeals is vital to ensure the applicant’s culture is respected and supported, not discounted or disregarded. When we do this, we create an experience for at-risk applicants which is equal and removes cultural divisions and inequities between Indigenous and non-Indigenous peoples. A designation method which captures the Indigenous reality and

produces a clear and informed narrative of the applicant's pain and hardships would replace a long-held institutionalized practice which denies and minimizes truths and experiences of survivors/claimants seeking designation. Furthermore, an equitable designation method validates the necessity of competently serving all who struggle with disability pain which is worsened by ongoing colonial regime.

Consequently, by Resolution 2021-17, the UBCC Chiefs Councils urges the provincial government, the Ministry of Social Development and Poverty Reduction, and other relevant ministries and agencies to address the critical shortcomings in the PWD application and appeals process, and to take substantive action to implement Kelly Dede-Marshall's recommendations (outlined in the enclosed Resolution). Furthermore, we call upon you to advance the recommendations for consideration in the new accessibility and inclusion legislation to be introduced in Spring 2021, as part of province's commitment to align legislation with the *UN Declaration* as set out in the *Declaration on the Rights of Indigenous Peoples Act*.

Please keep us updated at this work develops.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Don Tom
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

CC: UBCIC Chiefs Council
Kelly Dede-Marshall
BC Disabilities Alliance

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
FEBRUARY 24TH-25TH, 2021
VIRTUAL MEETING

Resolution no. 2021-17

RE: Decolonizing the Persons with Disabilities Designation (PWD) Application and Appeal Process

WHEREAS applying for disability assistance in BC is a challenging, inequitable, and alienating process for Indigenous applicants who already confront barriers to their health and welfare that stem from centuries of colonization, systemic discrimination, and disenfranchisement;

WHEREAS to be eligible for disability assistance, a person must meet the criteria for the Persons with Disabilities (PWD) designation and be designated as such by the Ministry of Social Development and Poverty Reduction, yet the design of provincial PWD forms and the process of applying for PWD creates an experience for Indigenous applicants that is degrading, emotionally demoralizing, and has frequently led to an applicant losing the life altering supports they otherwise would have qualified for;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

Article 21(1): Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security;

(2) States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22(1): Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

Article 24(1): Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services;

(2): Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right;

WHEREAS the current PWD application and appeals process does not adequately support, respect, and respond to the cultural, mental, and physical needs of Indigenous applicants, and instead reinforces cultural divisions and inequities between Indigenous peoples and non-Indigenous peoples;

WHEREAS the PWD application and appeals process strengthens and continues the institutionalized colonial practice of denying and/or minimizing the truths and experiences of survivors/claimants seeking reparations and support for the trauma and harm in their lives that is caused and exacerbated by an ongoing colonial regime;

WHEREAS Kelly Dede-Marshall, advocate, has identified a set of critical recommendations aimed at addressing and rectifying problems in the current PWD process, including:

1. Insert spaces on the form specifically for *traditional ways* that an applicant's disability prevents them from doing (and therefore from healing, strengthening); this will inform and encourage the adjudicator to consider the cost, effort and necessity of harvesting, canning, fishing, hunting, attending and preparing for ceremony, supporting Elders etc., that a person with a disability must rely on for their spiritual, emotional and physical healing.
2. Have shorter, brief written forms and personal face to face interviews to witness truth and establish trust in a respectful manner, and to expedite decisions.
3. To combat the degrading style of the assessment that asks devaluing questions such as "how bad is your life?" and "how many things can't you do?," train the assessor (writer of the form) or the advocate for the applicant to facilitate the process in a way that is culturally appropriate; they can disclose and outline the applicant's knowledge and gather enough information in a kind and respectful (non-probing) way which clearly represents the reality of the applicant's disability and loss of function.
4. The appeal process should be a verbal interview, in which the adjudicator can ask for clarity and active conversation allows succinct details and understanding to render an immediate and informed decision; often the appeals process is a long, written process in which people and Elders, who are already suffering through great pain, are at great emotional risk and must work hard to find a trained advocate to support their appeal.
5. Assessors need to be closely selected and monitored for their quality and capability; they should be paid their provincial fee (\$75.00) when they have submitted an invoice, accounting for quality service, as attested to and signed by the applicant. The current practice allows the assessor to be paid without accountability for their poor quality of assessment service, and lack of follow-up;
6. Applicants should have access to a culturally safe and, where possible, an Indigenous health practitioner or physician who can maintain the cultural integrity of the applicant, support the application process, and ensure Section 2 of the PWD form, the "Physicians Report," is filled out expediently and accurately, free from discrimination of any kind;

WHEREAS by UBCIC Resolution 2000-20, 2012-40, and 2014-12, the UBCIC Chiefs Council brought to attention the challenges that continue to keep Indigenous people with disabilities at a disadvantage, and called for better funding, social assistance, programs, and action from the government to ensure these challenges were resolved and that their basic needs were met; and

WHEREAS the government of British Columbia has committed to developing new accessibility and inclusion legislation that will help create a barrier-free B.C. through the proactive identification, removal and prevention of accessibility barriers, and has committed to introducing this legislation by Spring 2021.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully recognizes that the Persons with Disabilities (PWD) Designation application and appeal process is a grueling, demoralizing, and colonized experience for vulnerable Indigenous applicants that mirrors the experience survivors of colonial violence undergo when their truths and experiences are invalidated and denied by a colonized system;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council fully supports all the recommendations put forward by Kelly Dede-Marshall, advocate, to reform the PWD application and appeals process so that Indigenous peoples' cultural, mental, and physical needs are adequately respected by and reflected in the applications form and process;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council urges the provincial government, the Ministry of Social Development and Poverty Reduction, and other relevant ministries and agencies to address the critical shortcomings in the PWD application and appeals process, and to take substantive action to implement Kelly Dede-Marshall's recommendations, including ensuring that there is space in the application process to address and advance the traditional and cultural practices that Indigenous applicants depend upon for their spiritual, mental, and physical wellbeing; and

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with Kelly Dede-Marshall and other like-minded organizations to continue advocating for the decolonization and reform of the PWD application and appeals process, and to advance the recommendations outlined in this resolution to the provincial government for inclusion in the new accessibility legislation, as part of province's commitment to align legislation with the *UN Declaration* as set out in the *Declaration on the Rights of Indigenous Peoples Act*.

Moved: Cora Anthony, Neskonlith Indian Band (Proxy)
Seconded: Chief Harvey McLeod, Upper Nicola Indian Band
Disposition: Carried
Date: February 25, 2021