



Information Sheet

Jordan's Principle

Summary of Orders from the Canadian Human Rights Tribunal

Case Reference: 2017 CHRT 14 (May 26, 2017 – Revised July 24, 2017)

What is Jordan's Principle?

Jordan's Principle is a child first principle named in memory of Jordan River Anderson. Jordan was a First Nations child from Norway House Cree Nation in Manitoba. Born with complex medical needs, Jordan spent more than two years unnecessarily in hospital while the Province of Manitoba and the federal government argued over who should pay for his at home care. Jordan died in the hospital at the age of five years old, never having spent a day in his family home.

Jordan's Principle aims to make sure First Nations children can access all public services in a way that is reflective of their distinct cultural needs, takes full account of the historical disadvantage linked to colonization, and without experiencing any service denials, delays or disruptions related to their First Nations status. The government of first contact pays for the service and resolves jurisdictional/payment disputes later.

Why is Jordan's Principle important?

Payment disputes within and between federal and provincial or territorial governments over services for First Nations children are not uncommon. First Nations children are frequently left waiting for services they desperately need, or are denied services that are available to other children. This includes services in education, health, early childhood services, recreation, and culture and language. Jordan's Principle calls on the government of first contact to pay for the services

without delay and seek reimbursement later so the child does not get tragically caught in the middle of government red tape.

What did the Tribunal say about Jordan's Principle?

On January 26, 2016, the Canadian Human Rights Tribunal found that Canada's failure to ensure First Nations children can access government services on the same terms as other children via Jordan's Principle was discriminatory and contrary to the law and ordered Canada to cease applying its narrow definition of Jordan's Principle and to take measures to **immediately implement the full meaning and scope of Jordan's Principle** (2016 CHRT 2).

In the year that followed, the Tribunal issued two remedial orders against Canada (April 26, 2016 and September 14, 2016) for its failure to adhere to the ruling on Jordan's Principle. The Tribunal noted that Canada was short on details as to how it complied with the ruling and that its new Jordan's Principle formulation remained too narrow.

Non-Compliance Orders

In November 2016, the Caring Society, Assembly of First Nations, and interested parties (Chiefs of Ontario and Nishnawbe Aski Nation) filed motions stating that Canada has failed to comply with the Tribunal's ruling (2016 CHRT 2) and remedial orders (2016 CHRT 10 and 2016 CHRT 16).

Three days of hearings on the non-compliance



motions were held in March, 2017. The Tribunal released its ruling on Jordan's Principle on May 26, 2017 (2017 CHRT 14).

In the May, 2017, ruling the Tribunal states that "Canada has repeated its pattern of conduct and narrow focus with respect to Jordan's Principle" and issues a third set of compliance orders (2017 CHRT 14).

"The definition of Jordan's Principle:

1. As of May 26, 2017, Canada shall cease using definitions of Jordan's Principle that do not comply with the Tribunal orders.
2. As of May 26, 2017, Canada will start using a definition based on the following principles:
 - i. Jordan's Principle applies equally to all First Nations children both on and off reserve and is not limited to First Nations children with disabilities, or short-term issues creating critical needs for health and social supports.
 - ii. Jordan's Principle applies to all government services and ensures that there are no gaps in government services to First Nations children.
 - iii. The government department of first contact will pay for the service to a First Nations child without engaging in administrative procedures before funding is provided.
 - iv. In cases when a government service is not necessarily available to all other children, or is beyond the normative standard of care, the government of first contact will still evaluate the needs of the child to determine if the provision of services should be provided to ensure substantive equality.
 - v. A jurisdictional dispute between departments or between governments is not a necessary requirement for the application of Jordan's Principle.

3. Canada shall not use or distribute a definition of Jordan's Principle that is in any way contrary to the orders listed above.
4. By November 1, 2017, Canada shall review previous requests (dating from April 1, 2009) for funding, whether made pursuant to Jordan's Principle or otherwise.

Processing and tracking of Jordan's Principle cases:

5. By June 28, 2017, Canada shall modify its processes surrounding Jordan's Principle to reflect the following standards:
 - i. The government department of first contact will evaluate the individual needs of the child requesting services under Jordan's Principle or that could be considered a case under Jordan's Principle.
 - ii. The initial evaluation will be made within 12-48 hours of its receipt.
 - iii. Canada shall cease imposing service delays due to administrative procedures before funding is provided.
 - iv. If the request is granted, the government department of first contact shall pay for the service without engaging in administrative procedures before funding is provided.
 - v. If the request is denied, the government department of first contact shall inform the applicant, in writing, of their right to appeal the decision and instructions on how to do this.
6. By June 28, 2017, Canada shall implement processes to ensure that all possible Jordan's Principle cases are identified and addressed.
7. By July 27, 2017, Canada shall develop internal systems to track the number of Jordan's Principle cases received and all aspects of the case (e.g., reason for application, service provided, etc.).
8. By November 15, 2017, (and every 6 months



thereafter) Canada shall provide a report and affidavit materials to the Tribunal in regards to the internal tracking system.

Publicizing the compliant definition and approach to Jordan's Principle

9. By June 09, 2017, Canada shall post a clear link to information on Jordan's Principle.
10. By June 28, 2017, Canada shall post a bilingual (French and English) televised announcement on the Aboriginal Peoples Television Network about Jordan's Principle.
11. By June 09, 2017, Canada shall contact all stakeholders who received communications regarding Jordan's Principle (since January 26, 2016) and advise them in writing of the findings and orders in this ruling.
12. By July 27, 2017, Canada shall ensure agreements with third-party service providers to provide services under the Child First Initiative's Service Coordination Function reflect the full and proper definition of Jordan's Principle.
13. By July 27, 2017, Canada shall fund and consult with the Complainants, the Canadian Human Rights Commission, and the Interested Parties to develop training and public education materials relating to Jordan's Principle.

Retention of jurisdiction and reporting

14. By November 15, 2017, Canada will serve and file a report and affidavit materials detailing its compliance with each of the above orders (2017 CHRT 14, with minor edits for length)."

CHRT decisions:

2016 CHRT 2 (January 26, 2016). Para 481.
<http://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/127700/1/document.do>

2016 CHRT 10 (April 26, 2016). Paras 30-33
<http://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/143741/1/document.do>

2016 CHRT 16 (September 14, 2016). Paras 107-120
<http://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/181627/1/document.do>

2017 CHRT 14 (May 26, 2017). Paras 133-135
<https://fncaringsociety.com/sites/default/files/2017%20CHRT%2014.pdf>

For more information on the case go to

www.fnwitness.ca or contact info@fncaringsociety.com