

Ministry of Children and Youth
Services

Ministère des Services à l'enfance
et à la jeunesse



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DATE: May 18, 2016

MEMORANDUM TO: Children's Aid Society Board Chairs
Children's Aid Society Executive Directors

FROM: Rachel Kampus
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SUBJECT: Motherisk Policy Directive CW004-15 Update and Expectations
for Submission of Adoption Finalization Documentation

This memorandum is to provide an update on Policy Directive CW004-15 as well as to outline the ministry's expectations regarding the submission of adoption finalization documentation to the regional office for sign-off where a positive Motherisk hair strand test has been noted.

Policy Directive CW004-15

Effective immediately, the interim Policy Directive CW004-15 *Directions Related to Certain High Priority Cases Involving Motherisk Drug Testing Laboratory (MDTL) Hair Testing*, is no longer in effect now that the independent Commissioner has been appointed and has begun her own communications with children's aid societies (CASs).

On December 17, 2015, in response to the Lang Report and pending the government's appointment of an independent Commissioner, the MCYS issued policy directive CW004-15 as

an interim measure to direct CASs to take immediate actions relating to certain high-priority cases as recommended in the Lang Report.

Effective January 15, 2015, by Order in Council 4/2016, the Lieutenant Governor in Council established a Commission (the "Motherisk Commission") and appointed Justice Judith Beaman as an independent Commissioner to support and assist persons affected by the flawed Motherisk test results.

As part of her mandate, the Commissioner is authorized to,

offer early advice or guidance on high priority cases, including those cases identified as high priority by children's aid societies, and review individual child protection cases that may have been affected by Motherisk hair tests between 1990 and 2015, on request or on her own initiative.

The Motherisk Commission has now established its operations and is carrying out its mandate. The Commissioner is engaging with CASs regarding the types of cases and documents she requires from CASs. On February 24, 2016, the Commissioner issued an order requiring CASs to "release complete electronic or paper copies of the unredacted case files, which have been identified by herself and by the Children's Aid Societies as high priority cases, to the Motherisk Commission as soon as possible." This order includes files identified in accordance with policy directive CW004-15.

As the Commissioner has also asked the Ministry to restate her list of high priority cases:

1. Cases where a child had been placed for adoption and the adoption was finalized during the period December 17, 2015 to today;
2. Cases where a child has been placed for adoption but the adoption has not yet been finalized;
3. Cases where a custody order under section 57.1 was made during the period December 17, 2015 to today;
4. Cases where a child has been made a crown ward and is in the care of a society but has not yet been placed for adoption;
5. Cases where a child is a crown ward and is in the care of a society and an application for a custody order under section 65.2 is pending; and
6. Cases where an application is pending in court to make a child a crown ward or for a custody order under section 57.1.

the ministry understands that CASs are providing the requested files to the Commission.

In light of the above, the interim period the Directive was intended to bridge has passed, and Directive CW004-15 is no longer in effect.

In support of the Motherisk Commission's work, the ministry reinforces the need for CASs to continue their cooperation with the Commission.

As custodians of child protection case files that may be required by the Motherisk Commission, it is the ministry's expectation that CASs will continue to comply with the directions provided to them by the Motherisk Commission during the course of its mandate.

Policy Directive CW001-15 (issued April 22, 2015) continues to be in effect and CASs are not to use or rely on hair-strand drug and alcohol testing in the course of providing child protection services.

Submission of Adoption Finalization Documents to the Regional Office

It has come to the ministry's attention that adoption documents have been submitted to the ministry for finalization that include notes of a positive Motherisk hair-strand test result. It is the ministry's expectation that prior to the submission of these documents to the ministry that CASs have submitted these cases to the Motherisk Commission for their review, per the Commission's February 24, 2016 order.

Following the Motherisk Commission's review of these cases, adoption finalization documents that note a Motherisk hair strand test may be submitted to the ministry. Submitted packages must include written confirmation from the CAS that the Motherisk Commission has concluded its review and provided the opinion that the case can proceed towards finalization.

Thank you for your due diligence in this matter. Should you have any questions or concerns, please contact your regional Program Supervisor.



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