

**APPENDIX 1**

**CLAIMS ADMINISTRATION PROCESS AND  
COMPENSATION PARAMETERS**

**Class action CHSLD Herron**

**Superior Court of Quebec: 500-06-001060-207**

**I. WHO MAY MAKE A CLAIM UNDER THE SETTLEMENT AGREEMENT?**

1. The Class members who are concerned by the Class action are defined as follows:

“All individuals resident in the CHSLD Herron at any time from March 13, 2020 to May 31, 2020 (“**Residents**”), estates of any such Residents who passed away between March 13, 2020 and May 31, 2020 (“**Estates**”), as well as the surviving spouses and children of Residents who passed away between March 13, 2020 and May 31, 2020” (“**Family Members**”);

2. The term “**Resident**” refers to an individual who, at any given time between March 13, 2020 and May 31, 2020, resided at the CHSLD Herron in accordance with the terms of an “Occupancy Agreement”;

3. The term “**Deceased Resident**” refers to a Resident of the CHSLD Herron who passed away between March 13, 2020 and May 31, 2020;

4. The term “**Estate**” refers to the estate of a Resident in accordance to:

a) a notarial will, a holograph will, or a will made before witnesses; or

b) in the case of a Resident who passed away without a will, sections 666 to 683 of the *Civil Code of Quebec* which deal with the legal devolution of estates;

5. The term “**Spouse**” refers to the individual who survives the Deceased Resident and with whom they formed a couple, either by:

a) marriage;

b) civil union;

c) common law partnership that had been ongoing for at least three (3) years prior to March 13, 2020;

6. The term “**Child**” refers to a first-degree surviving descendant of a Deceased Resident, namely the latter’s son or daughter (whether they are related by blood or adoption);
7. If an individual ceased residing at the CHSLD Herron before March 13, 2020 or if an individual was admitted at CHSLD Herron after May 31, 2020, he or she is not eligible for compensation under the Settlement Agreement;
8. For the purpose of determining the compensation, Class members will fall into the following Categories:

- a) **Category 1**: Estate of a Resident who passed away at any time between March 13, 2020 and May 31, 2020

Category 1 compensates the alleged personal harm a Resident suffered before he or she passed away. All amounts paid are part of the deceased’s patrimony and are passed on to his or her Estate;

- b) **Category 2**: Surviving Spouse of a Deceased Resident

Category 2 compensates the alleged personal harm suffered by the Spouse resulting from the death of the Deceased Resident;

- c) **Category 3**: Surviving Child of a Deceased Resident

Category 3 compensates the alleged personal harm suffered by a Child resulting from the death of the Deceased Resident;

- d) **Category 4**: Surviving Resident who resided at the CHSLD Herron at any time between March 13, 2020 and May 31, 2020

Category 4 compensates the alleged personal harm suffered by a Resident who was alive between March 13, 2020 and May 31, 2020;

## **II. WHAT IS THE COMPENSATION ACCORDING TO EACH CATEGORY?**

9. The amount of compensation per each Category will only be known once all the claims will have been decided by the Claims Administrator. It is only at that time that the Claims Administrator will know 1) how many claims have been approved and 2) how many claimants belong to each Category of compensation;
10. The Net Settlement Funds will be distributed among the Class members who will have submitted a claim deemed valid by the Claims Administrator, in the following proportions:

- a) The compensation awarded to the Estate of a Deceased Resident (**Category 1**) shall serve as the basis for the determination of the compensation under Categories 2, 3, and 4;
  - b) A Surviving Spouse (**Category 2**) shall be paid the equivalent of 66.67%<sup>1</sup> of the compensation awarded to the Estate of a Deceased Resident (**Category 1**);
  - c) A Surviving Child (**Category 3**) shall be paid the equivalent of 33.33%<sup>2</sup> of the compensation awarded to the Estate of a Deceased Resident (**Category 1**);
  - d) A Surviving Resident (**Category 4**) shall be paid the equivalent of 73%<sup>3</sup> of the compensation awarded to the Estate of a Deceased resident (**Category 1**);
11. **For example and for illustration purposes only**, assuming that each Estate of a Deceased Resident (Category 1) is awarded \$35,000, then each Surviving Spouse (Category 2) would receive \$23,333, each Surviving Child (Category 3) would receive \$11,666, and each Surviving Resident (Category 4) would receive \$25,666;
  12. The maximum gross amount that an Estate of a Deceased Resident (Category 1) may be awarded is \$40,000. Depending on the number of Class members who file a valid claim, this amount may be inferior;
  13. If there is a remaining balance after the distribution of the Net Settlement Funds by the Claims Administrator in accordance with the Settlement Agreement, the Fonds d'aide aux actions collectives may deduct from said remaining balance the percentage set forth in the *Act respecting the Fonds d'aide aux actions collectives* (RLRQ c F-3.2.0.1.1) and the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*;
  14. If there is a remaining balance after deduction of the aforementioned percentage to the Fonds d'aide aux actions collectives, the Parties may petition the Court and make representations regarding the allocation of the remaining balance to a third-party organization;

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<sup>1</sup> Please note that the exact percentage, because it is calculated using a mathematical formula, contains decimals.

<sup>2</sup> *Ibid*, Note 1.

<sup>3</sup> *Ibid*, Note 1.

### III. HOW TO SUBMIT A CLAIM?

15. To be eligible for compensation under the Settlement Agreement, Class members must submit a claim to the Claims Administrator no later than **2021, at 4:30 PM. The deadline set forth in this section is one of forfeiture and all claims filed after the Claim Deadline has expired will automatically be rejected;**
16. Class members must file a valid claim by filling out and signing the Claim Form found at **APPENDIX 2**, and attaching all required supporting documents;
17. The Claim Form and all documents submitted in its support must be sent to the Claims Administrator either by email, fax or standard mail (attesting the date it was sent), at the following coordinates:

#### **Collectiva**

Standard mail : 2170 blvd. René-Lévesque West  
Unit 200  
Montreal (Quebec) H3H 2T8

or

Fax: 514-287-1617

or

Email : [chsldherron@collectiva.ca](mailto:chsldherron@collectiva.ca)

18. If an individual happens to be the liquidator of the Estate of a Deceased Resident as well as a Surviving Spouse or a Surviving Child, he or she must submit one distinct Claim Form for each Category of compensation, e.g., a Claim Form for Category 1 and a separate Claim Form for Category 2 or 3, as the case may be;
19. If a Deceased Resident is survived by more than one Child, each Child must submit his or her own Claim Form. A Surviving Child may not file a joint Claim Form on behalf of his or her brothers and/or sisters;
20. If a Resident was alive between March 13, 2020 and May 31, 2020, but passed away after the period covered by the Class action (which ends on May 31, 2020), the liquidator of their Estate may seek compensation by filing a Claim Form under Category 4. His or her surviving spouse or surviving children are not, however, eligible to seek compensation by filing a claim under Category 2 or 3;
21. The supporting documents a Class member must submit with their Claim Form depends on the Category for which the claim is filed:

22. **Category 1**: Estate of a Deceased Resident:

- a) A copy of the Deceased Resident's death certificate;
- b) A copy of the occupancy agreement of the Deceased Resident with the CHSLD Herron;
- c) A copy of the search conducted with the Register of Wills and Mandates of the Barreau du Québec;
- d) A copy of the search conducted with the Register of Testamentary Dispositions of the Chambre des Notaires du Québec;
- e) Proof that the claimant is the liquidator of the Estate, namely:
  - i. In the case of a notarial will: a copy of the will appointing the claimant as liquidator;
  - ii. In the case of a holograph will or of a will made before witnesses: a copy of the will, the court order according to which the will was verified, and the claimant's registration as liquidator with the Register of Personal and Movable Real Rights;
  - iii. In the case of an estate managed *ab intestat* (i.e. without a will): the registration of the liquidator's appointment with the Register of Personal and Movable Real Rights, as well as the declaration of transmission due to death;
- f) A copy of a document which proves the identity of the liquidator (such as a driver's license, a health insurance card, or a passport);

23. **Category 2**: Surviving Spouse :

- a) A copy of the Deceased Resident's death certificate;
- b) A copy of a document which proves the identity of the Surviving Spouse (such as a driver's license, a health insurance card, or a passport);
- c) A copy of the marriage certificate, civil union certificate, or any other document evidencing the claimant's relationship with the Deceased Resident;
- d) In the event where the claimant was the Deceased Resident's common law partner, documentary evidence that both individuals had been living as a couple for at least three (3) years prior to the Deceased Resident's passing;

24. **Category 3**: Surviving Child :
- a) A copy of the Deceased Resident's death certificate;
  - b) The copy of a document which proves the identity of the Surviving Child (such as a driver's license, a health insurance card, or a passport);
  - c) A copy of the Child's birth or adoption certificate (which clearly mentions the names of their mother and father).
25. **Category 4**: Surviving Resident who resided at the CHSLD Herron between March 13, 2020 and May 31, 2020:
- a) A copy of the occupancy agreement of the Resident with the CHSLD Herron;
  - b) If the Resident is subject to protective supervision: a copy of the notarized mandate given in anticipation of incapacity or of the court order appointing the claimant as legal representative;
  - c) If the Resident is subject to protective supervision: a copy of a document which proves the identify of his or her legal representative (such as a driver's license, a health insurance card, or a passport);
  - d) If the Resident passed away after the period covered by the Class action (which ends on May 31, 2020), the liquidator of his or her Estate may seek compensation by filing a claim under Category 4 and providing the documents listed in subsections 22 a), c), d), e), and f);

#### **IV. WHO DETERMINES WHETHER OR NOT A CLAIM IS VALID?**

26. As stipulated in paragraph 20 of the Settlement Agreement, the Claims Administrator is solely responsible for determining which claims are admissible and the determination of the Category of compensation;
27. Within thirty (30) days of receipt of a Claim Form and supporting documentation, the Claims Administrator shall issue a written decision indicating whether the claim has been approved or rejected and under which Category of compensation (the "**Administrator's Decision**");
28. In the event a Class member incorrectly fills out a Claim Form or fails to submit the required documents:
- a) The Claims Administrator shall, in writing, inform the Class member that he or she must rectify the situation within thirty (30) days, failing which his or her claim shall be rejected;

- b) The Claims Administrator, within thirty (30) days of receipt of the Class member's corrected Claim Form and/or missing documentation, shall issue the Administrator's Decision;

29. The Administrator's Decision shall be final, enforceable, and non-appealable.

**V. WHEN WILL PAYMENT BE MADE?**

30. As stipulated in paragraph 9 of this Appendix, the amount of the compensation payable under each Category will only be known once all claims have been received and decided by the Claims Administrator. At that moment, the Claims Administrator will know how many claims have been approved and how many claimants belong in each Category of compensation, and be able to distribute the Net Settlement Funds in accordance with paragraphs 9 to 13 of this Appendix;

31. The Claims Administrator will have sixty (60) days from the Claim Deadline, namely until ● 2021, to send a settlement cheque to each Class member who submitted a valid claim, according to the Category of compensation determined in the Administrator's Decision;

32. The Claims Administrator will have sixty (60) days from the Claim Deadline, namely until ● 2021, to file in the Court record a report of its administration, detailing the way the Net Settlement Funds were distributed. The report shall contain the following information:

- a) The number of claimants whose claims have been approved for each Category of compensation;
- b) The amount allocated to each Category of compensation;

33. All settlement compensation will be calculated and paid in Canadian dollars.