

Summary: The Québec Ombudsman's report on parents' financial contribution towards the placement of their child under government charge

During fiscal year 2010-2011 in Québec, 20 623 children under age 18 under the government's charge were lodged in substitute environments pursuant to the *Youth Protection Act*, the *Youth Criminal Justice Act*, or the *Act respecting health services and social services*. Some 57% were placed in foster families, 36% in group homes, which are operated by youth centres, 6% in intermediate resources, and 1% in some other kind of resource.

In every case where the Ministère de la Santé et des Services sociaux is temporarily entrusted with a child, the child's parents are required to pay a financial contribution towards the cost of their child's room and board (hereinafter the "CFP").

The CFP is consistent with the principle that the primary responsibility for the care, maintenance and education of a child and for ensuring his or her supervision rests with the child's parents. The purpose of the CFP is to preserve parent responsibility so that, where appropriate, at some point the child can be returned to the family environment. The CFP also addresses the issue of fairness for families in the same circumstances who keep caring for their child.

In the past, the average length of placement ranged from 6 to 24 months, but in recent years, it has increased, one of the reasons being to enable parents to get their lives in order and give their child a stable life. According to statistics from the Régie des rentes du Québec, in 2010 more than 65% of placed children had spent more than one year in a substitute environment and 46%, more than three years.

In some 80% of cases, the youth centre serves as a substitute environment in the context of a youth protection intervention. This means that, generally speaking, the situation of the parents whom youth centres must approach for payment of the CFP is delicate, emotionally charged, and fraught with financial uncertainty and social adaptation and integration problems. The data gathered during the investigation we conducted confirm the vulnerability of most of the parents required to pay the CFP. The majority of children in substitute environments come from single-parent families, the majority of which pay the minimum monthly contribution (\$22.24) and have an annual income of \$30,000 or less.

Parents must pay the monthly CFP as of the 31st day the child is lodged, whether placement is voluntary or mandatory and regardless of the act under which placement was ordered. No matter the kind of residential resource, the CFP is collected and administered by the youth centre's financial service.

Intervention by the Québec Ombudsman

For several years now, much thought and work has been dedicated to the issue of administration of the CFP. A case in point is the Health and Social Services Ombudsman opinion released in April 2003 that underscored the obsolescence of the regulatory and legislative framework and the disparities in youth centres' practices in interpreting and applying this normative framework. The current intervention by the Québec Ombudsman reinforces these findings.

In October 2010, youth centres' local service quality and complaints commissioners asked the Québec Ombudsman to intervene with respect to problems concerning youth centres' calculation and collection of the CFP. An analysis of the complaints received by the Québec Ombudsman on this subject corroborated the local commissioners' reports. That is why the Québec Ombudsman decided to document youth centres' practices and analyze the bases, limits and impact of the rules governing the CFP.

For the investigation it conducted, the Québec Ombudsman drew most of its observations and examples from youth centres in six administrative regions covering nearly 70% of Québec's population and 63% of children lodged in substitute environments in Québec. It spoke with Ministère de la Santé et des Services sociaux and Régie des rentes du Québec representatives and also consulted several local service quality and complaints commissioners and Association des centres jeunesse du Québec representatives.

After examining the problems in connection with the CFP, the Québec Ombudsman is not calling into question parents' obligation to contribute financially towards placement of their minor child. However, it believes that review of the current framework for administering the CFP and standardization of youth centre practices in this regard would be appropriate.

Unfairness and disparities in practices

There has been much criticism by various youth centre employees of the current framework governing CFP administration. Many consider that the *Regulation respecting the application of the Act respecting health services and social services* is financially prejudicial to parents whose child is lodged in a substitute environment or that it does not recognize the key role that persons most important to the child, such as a grandparent or other close family member, can have in the child's development, even in cases that warrant their involvement. Problems of this kind have been noted in several regions of Québec.

The Québec Ombudsman has found that ways of administering the CFP vary from one youth centre to another. Rather than maintaining or strengthening parent-child relationships, some practices fuel conflicts between the parents and youth centre employees, which, ultimately, can adversely affect a child's return to his or her family environment.

The Québec Ombudsman has noted that several institutions have adjusted their practices or even sidestepped the regulation in order to act more fairly towards parents and sheltered children. The result is disparities in how youth centres and sometimes even the employees of a same youth centre apply the regulation and administer the CFP. These disparities in practices concern the information conveyed to citizens, billing, calculation of exemptions, credits for periods when the child spends time away from the substitute environment, negotiating agreements with parents who have difficulty making the CFP payment, and collecting from parents in default.

These disparities in practices are prejudicial to parents because they are treated differently depending on the youth centre responsible for their child and sometimes even on the caseworker. For example, some youth centres opt for a billing method that takes greater account of parents' real ability to pay, while others charge more, even if it means reducing the amount later. Some youth centres will offer the possibility of payment agreements, but others use much stricter measures with parents in default.

Review the administrative framework to make it fairer

The Québec Ombudsman notes that neither the regulation nor the Ministère de la Santé et des Services sociaux policy regarding the CFP have been adjusted to factor in changes to the family benefit system over the years. Even though the amount of the child assistance payment has increased substantially since 1997, the minimum rate of contribution, unlike the maximum rate of contribution, has not been indexed. Some of the benefits (e.g. baby bonuses) on which the calculation of CFP rates is based no longer exist. **For the sake of fairness, it is important that the fiscal reality of families today be taken into account in determining CFP rates.**

The Québec Ombudsman also notes that there **is a sharp increase in the CFP amount starting at around the \$30,000 annual income level.** This may be a demotivating factor for parents who, as a result, must use a large portion of their income to pay the CFP. For example, while parent A who earns \$10,000 a year pays the same CFP amount as parent B who earns \$30,000 (\$22.24 a month/\$267 a year), the payment required of parent C who whose annual income is \$40,000 increases by 880% (from \$267 to \$2616.48 a year) compared to that required of parent B. For parent D whose annual income is in the vicinity of \$50,000, the contribution increases by 88 % (from \$2616.48 to \$4922.76) compared to that of parent C.

Presently, the child support paid to creditors cannot be deducted from debtors' income for CFP calculation purposes. The parents who pay child support feel that they are being double-billed because they must pay child support to their ex-spouse even though their child is now in a substitute environment as well as the CFP to the youth centre. In the Québec Ombudsman's estimation, this situation should be rectified—in all fairness, the regulatory framework must be amended to take account of the support paid by the debtor to the creditor in calculating the CFP.

There is also a problem of fairness when the monthly supplement for a handicapped child who lives with his or her parents is included in the parents' income for the purposes of calculating the CFP required for another child for whom the supplement is not intended. The Québec Ombudsman wants to ensure that inclusion of the child assistance payment and the supplement for handicapped children paid by the Régie des rentes du Québec (\$179/month) in parents' income for CFP calculation purposes does not lead to unfair adjustments to the amount of the CFP for lodging of another child.

The normative framework governing the CFP has not kept pace with advances in youth protection, notably, further to reform of the *Youth Protection Act* in 2007. This act favours the involvement, insofar as possible, of parents and persons most important to the child in order to put an end to a situation in which the security or the development of the child is in danger. Currently, credits can be granted for the days the child spends with his or her mother or father (the parent is exempted from paying the CFP for those days). Since it may be in the interest of a child to stay temporarily with one of the persons most important to him or her within their natural life environment (e.g. grandparent), and it may favour the child's future return to the family environment, the Québec Ombudsman recommends allowing youth centres to grant these credits when, with the centre's consent and in accordance with the child's intervention plan, the child spends time in a natural life environment that fosters the parents' ability to assume responsibility.

At present, when a minor child is taken in charge by the health and social services network, the child's parents are informed that they must pay the CFP required by the youth centre if they want to preserve their right to receive the child assistance payment paid by the Régie des rentes du Québec. Several youth centre workers said that they feel uncomfortable broaching these financial subjects with parents, especially in situations of youth protection interventions. Youth centre social workers should be trained to deal effectively with discussing the financial issues stemming from placement so that they can inform parents adequately, including with regard to the obligation to pay the CFP in order to continue receiving the child assistance payment.

As it stands, only a child's mother or father may be required to pay the CFP. The Québec Ombudsman considers that CFP billing should take into account the person who has actual charge of the child. The regulation should be amended so that the obligation to pay the youth centre the CFP does not preclude that a

person other than the child's mother or father, such as a close family member (grandparent, aunt or uncle), can receive the child assistance payment if that person has *de facto* responsibility for a child temporarily lodged in a substitute environment and the person pays the required CFP.

In certain circumstances, parents who pay a minimum contribution of \$22.24 a month (\$0.75 a day) can continue to receive the child assistance payment of \$254.66 a month even if the child remains placed until he or she reaches full age and there is no longer any contact between them. The Québec Ombudsman considers that, for the sake of fairness, **in exceptional circumstances where the parents have no contact with their child lodged in a substitute environment until he or she reaches 18**, either because the child's intervention plan recommends that there be no contact or because contact is authorized but does not occur, **the parents' right to receive the child assistance payment from the Régie des rentes du Québec should be withdrawn.**

Facilitate secure access to the financial information required of parents

Currently, CFP amounts are determined based on monthly rates that vary according to the child's age. Pursuant to the regulation, the CFP required of the parents must be set at the maximum rate for the child's age category at the beginning of placement. The youth centre therefore sends the parents a bill in the amount that corresponds to the rate set for the child's age category. When parents feel that they cannot afford it, they may apply to the youth centre to be partially exempted from paying the CFP, which may bring the required amount down to the minimum of \$22.24 a month. In fact, the majority of parents whose child is lodged in a substitute environment are granted the exemption.

One of the main difficulties faced by youth centres is **obtaining the financial information needed to calculate exemptions and establish CFP amounts** because of parents' lack of cooperation. Since the exemption cannot be calculated without proof of the parents' annual income, the youth centre generally bills parents at the maximum rate until such time as one of them provides the information. Since often the initial CFP required of parents does not reflect their real ability to pay, they are not overly inclined to cooperate with youth centre workers. Consequently, youth centres must take many extra steps to locate the parents and explain the financial obligations stemming from their child's placement.

The Québec Ombudsman considers that current difficulties concerning billing and calculation of exemptions could be resolved to a large extent by easier access to parents' financial information. With this in mind, the Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux and Agence du Revenu du Québec (Revenu Québec) **enter into agreements enabling youth centres, at the beginning of any new placement, to obtain the information needed to calculate the CFP, and only that information, through a secure transfer process**, validated by the Commission d'accès à l'information in accordance with the relevant legislative provisions.

The Québec Ombudsman is aware of the confidentiality issues raised by its recommendation. However, it remains convinced that such agreements will enable speeding up of the billing process and ensure, from the beginning of placement, that the CFP is more in line with parents' real ability to pay. Furthermore, secure access of parents' financial data provided by Revenu Québec will contribute to efforts to standardize youth centre practices in terms of billing, calculating exemptions, determining CFP amounts, and collecting payment.

Establish guidelines and improve communication between institutions

The Ministère de la Santé et des Services sociaux should develop a framework that establishes guidelines aimed at standardizing youth centre practices, notably concerning negotiation of payment agreements with parents who default on paying the CFP. These parents sometimes run up debts towards the youth centre for defaulting on CFP payment and hefty debts towards the Régie for child assistance overpayments. Such a framework would also enable youth centres to have fairer criteria for collecting unpaid CFP.

The Québec Ombudsman also notes that **communication between some youth centres and residential resources under the responsibility of the health and social services network, including rehabilitation centres, must be strengthened** so that parents are informed immediately at the beginning of placement of their minor child of their financial obligation as well as of the link between the CFP and the child assistance payment paid by the Régie. The failure of some institutions to inform youth centres of new placements delays billing. Currently, some youth centres bill retroactively to the date of the beginning of placement, whereas others bill as of the date on which the parent was informed of his or her obligations. Better communication would also make it possible to alleviate youth centres' problems in obtaining the information from residential resources that they need for administering the credits for time the children spend away.

Rethink how the CFP is administered

The Québec Ombudsman notes that the current system is very unwieldy to administer and that a more efficient method must be put in place. The administration fees for the CFP are onerous and the CFP amounts collected from parents are minimal compared to the overall cost of placement. During the fiscal year ended March 31, 2011, in Québec, the CFP collected from parents accounted for only approximately 0.9 % of youth centres' annual budget.

At present, the efforts of youth centres' financial services which, in 70% of cases, amount to little more than attempts to collect a baseline CFP of \$22.24 a month from parents who earn less than \$15,000 a year, far exceeds the CFP amounts they manage to recover.

The Québec Ombudsman acknowledges that it is appropriate to require parents to contribute financially when their minor child is placed, irrespective of the child's biological, psychological or social condition or of the act under which placement is ordered. However, it recommends that the Ministère de la Santé et des Services sociaux, the Régie des rentes du Québec and Agence du Revenu du Québec make the adjustments needed to, insofar as possible, harmonize the CFP with changes in the fiscal measures to support families and with youth protection principles. Such adjustments would result in the CFP contributing more effectively and fairly to achievement of the objective of maintaining parent responsibility and parent participation in the funding of the services provided to their child who is lodged in a substitute environment.