

**CIRCULAR****Date:** May 10, 2017**CIRCULAR NUMBER:** EIA #2017-20      **Alternate Programs:**

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**To:** Community Social Service Supervisors/Program Managers**Subject:** **Provision of EIA financial supports for dependent children living with an adult who is not their parent/legal guardian****Reference:** EIA Administrative Manual:

- Section 8 – Assistance to Single Parents and Children
- Section 10 – Assistance to Children Under Section 5(1)(f)

EIA Circular 2012-62: Child and Family Services Apprehensions and Re-Unifications – EIA Benefit Eligibility**Replaces:** Circular EIA #2016-03

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**Type:**       Policy                                       For Internal Reference Only  
 Procedure  
 Rate  
 Information Only**Effective Date:** Immediately

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The circular **replaces** the original Circular 2016-03. This version provides staff with additional direction on Employment and Income Assistance (EIA) policy and procedures regarding the provision of financial supports for children who are being cared for by an adult caregiver who is not their parent/legal guardian. It also includes new policy direction on how to address financial assistance requests made by alternate caregivers for children in their care when the legal parent is not on income assistance.

This circular also advises staff that Legal Aid Manitoba has amended and renamed the former *Legal Aid Manitoba Guardianship Agreement* with the new *Legal Aid Manitoba In Loco Parentis Acknowledgement and Agreement*. However, alternate caregiving arrangements recently acknowledged by Legal Aid Manitoba using the old *Guardianship Agreement* form may still be accepted by staff in order to assess if and how financial supports may be provided by EIA for the child in question. Any future changes to alternate caregiving arrangement that require Legal Aid Manitoba acknowledgement should be made using the new *In Loco Parentis Acknowledgement and Agreement* form.

Amendments have been made to the EIA Administrative Manual to fully reflect these new policies and procedures.

### **Background**

Section 5(1)(f) of The Manitoba Assistance Act presently supports the enrolment and provision of financial assistance to a child *"both of whose parents are dead or in the opinion of the director are unable to contribute to his maintenance and who is wholly dependent on another person for his basic necessities."*

Changes to EIA policy now support the release of financial supports for a child living with an adult who is not his or her parent/legal guardian under the authority of Section 5(1)(f) of The Manitoba Assistance Act providing that both the parent/legal guardian and the alternate caregiver are in agreement with the arrangement and can produce a signed copy of Legal Aid Manitoba's *In Loco Parentis Acknowledgement and Agreement*. If the parties have recent written confirmation from Child and Family Services (CFS) indicating awareness/approval of the alternate caregiving arrangement, this document may be accepted in lieu of completing a Legal Aid Manitoba agreement.

**Note:** In keeping with The CFS Act requirements that all Manitobans report potential child protection issues to their local Child Welfare Agency, EIA staff (as Manitobans) are to use their professional judgment in determining if any potential child protection concerns are present which may require CFS contact and involvement.

Where staff view a referral to CFS necessary, emergency assistance for the child may be considered and provided to the alternate caregiver until formal CFS direction is received on whether the child will remain in the care of the alternate caregiver.

### **Alternate Caregivers Seeking Legal Custody/Legal Guardianship of the Child**

The procedures discussed in this circular do not have any impact on the existing legislative authority and processes that speak to the assessment and enrolment of an eligible child as a "Dependent Child" (DC) on the case of an EIA participant who has been granted legal custody/legal guardianship by the courts. Under this scenario, the total resources and needs of the household are to be considered to determine if ongoing eligibility for EIA financial supports exist.

For alternate caregivers who produce confirmation that they are in the process of seeking legal custody/legal guardianship of the child, see **Item B** below for specific information on how to administer the child's financial needs for caregivers both on and off of EIA.

Once formal, legal custody/legal guardianship is granted by the courts, alternate caregivers (now legal guardians) both on and off of EIA must have their overall EIA household eligibility re-assessed with the child being added as dependent child (DC) on the household file.

### **Legal Parent Not on EIA/Not Receiving Band Financial Assistance**

No EIA financial supports are to be considered in scenarios where a legal parent is not on income assistance and has left the child with an alternate caregiver. This remains in effect even if a Legal Aid Manitoba *Guardianship Agreement*, or *In Loco Parentis Acknowledgement and Agreement* is produced.

If the legal parent refuses to do so and staff have concerns about the financial resources available to meet the child's daily needs, staff should inform CFS so that an investigation regarding the suitability of the caregiving arrangement and the legal parent's refusal to provide adequate financial supports for the child while in the care of the alternate caregiver can be undertaken.

The department may consider emergency financial assistance for the child until a formal response from CFS is received. Where the legal parent is providing some level of financial support for the child, these amounts are to be applied as a financial resource against emergency financial assistance amounts released by the department.

### **Legal Parent Receiving First Nations Band Financial Assistance**

**Note:** The following scenario does not apply to children who are residing with an alternate caregiver due to relocation for secondary schooling. In such cases, Indigenous and Northern Affairs Canada (INAC) has provisions via the Primary Home Placement Program to provide income assistance supports to alternate caregivers to meet the children's needs.

The EIA Leading Program and Practice Specialists must be consulted in every instance where an alternate caregiver approaches the department seeking financial supports for a child where the legal parent is receiving First Nations Band financial assistance (with the exception of relocations due to secondary schooling requirements).

### **Alternate Caregivers Providing Temporary Care – Legal Parent is EIA Recipient**

#### **A. Informal transfer of financial support for the child between parent and alternate caregiver**

When a private/informal caregiving arrangement has been established between a parent on EIA and an alternate caregiver (i.e. established with no court, Legal Aid Manitoba or CFS involvement) and financial arrangements have been made between both parties to meet the child's ongoing financial needs, staff are to clearly document the financial agreement in case notes. In this scenario, it is acceptable for the child to remain on the parent's EIA file with the parent expected to regularly forward the appropriate income assistance amounts for the child to the alternate caregiver.

**Note:** The legal parent's choice to keep the child with the alternate caregiver for extended periods may be in the best interest of all parties and does not necessarily suggest the existence of a child protection concern requiring reporting to CFS.

However, should the alternate caregiver approach the department seeking financial supports for the child due to a breakdown in the private/informal agreement with the legal parent, staff should assess ongoing financial supports for the child as described in **Item B** below.

## **B. Removal of child from EIA parent file and releasing financial supports direct to the alternate caregiver**

Where agreed to by both the EIA parent and the alternate caregiver, or where the informal financial support agreement has broken down and the alternate caregiver is requesting additional financial supports for the child, the following processes are to be followed:

- Staff are to instruct the parent and alternate caregiver to approach Legal Aid Manitoba to complete a *In Loco Parentis Acknowledgement and Agreement*. If required, staff may assess emergency assistance for the child while the Legal Aid Manitoba agreement is being prepared.
- **Alternate caregiver is on EIA:** Where a Legal Aid Manitoba *In Loco Parentis Acknowledgement and Agreement* or a recent written CFS acknowledgement of the alternate caregiving arrangement has been produced, the child should be removed from the legal parent's EIA case file and added to the alternate caregiver's file.
- **Alternate caregiver is not on EIA:** Where the aforementioned Legal Aid Manitoba or CFS documentation has been provided, the child is to be removed from the legal parent's EIA file and the ongoing financial supports provided via his/her own EIA case file.

**Note:** It is not necessary to return to Legal Aid to amend the agreement when both the parent and alternate caregiver elect to end the agreement and have the child return to the parent's care. However, if only one of the parties wishes to end the agreement, staff (as a Manitoban under *The CFS Act*) should inquire as to the reason for this decision as there may be other issues occurring that could warrant a referral to CFS for further investigation to ensure the child's stability and safety are not being compromised.

## **C. Administration of EIA parental cases who have had a child removed from the budget.**

In keeping with the policies in place to support the re-unification process of parents whose children have been apprehended by CFS (as per Section 6.7.10, or EIA Circular 2012-62), staff should take into consideration the nature of the alternate caregiver arrangement in order to determine if approval of ongoing excess shelter should be considered. Parents who have transitioned the care of their children to another (and who have provided a CFS acknowledgement of the alternate caregiving arrangement or a Legal Aid Manitoba *In Loco Parentis Acknowledgement and Agreement*) may be able to retain funding for their current accommodations at the higher rental rate for periods set out in policy while they address the personal reasons which led them to seek the alternate caregiving arrangement. Staff should consult with their supervisors to confirm if these excess accommodations costs will be approved, or alternately, if there are issues facing the parent that may warrant additional CFS involvement.