



British Columbia Child Support Eligibility Mediation Project By Chris Beresford

Project Description and Background:

In Canada, child support can continue past the age of majority (or emancipation) in certain circumstances. If a child is still attending schooling or other specialized training, or requires continuing care due to illness or disability, Canadian courts have ordered support to continue. As a result, parents often need to plan for the future of their “adult children.” That future can change on very short notice. College or university may not be the experience it was anticipated to be, or a job-training program can lead to further studies.

From a child support enforcement perspective, over 20% of cases enrolled in the British Columbia Family Maintenance Enforcement Program (FMEP) involve the support of children aged 19 and over. Many of these cases require us to make enforcement decisions as disputes arise between parents concerning the eligibility of adult children for child support. We do not have the mandate to assess child eligibility or conduct mediations to help parents come to agreement in these situations, and, unlike IV-D agencies in the United States, we have no mandate to assist clients in making modification applications to the court. If they cannot agree, the parents must deal with these matters on their own through the courts.

To help parents who may wish to resolve these issues outside the court process, British Columbia has started a pilot project that offers parents the opportunity to meet with a mediator and work through a number of scenarios based on the plans of their child or children. The type of mediation is different than the one offered at the time of separation or divorce, and the interaction with the child support enforcement program is also different.

The Child Support Eligibility Mediation Project (CSEMP) opened its doors in the spring. The project is a partnership between the FMEP and Mediate BC (www.mediatebc.com), a non-government organization with extensive experience working with families on issues that result from separation and divorce. The project provides separated parents of children over the age of majority with up to six hours of free mediation services to discuss their child’s circumstances, agree to an education or transition plan, and decide on financial support for the child as he or she becomes independent and self-supporting. The FMEP refers clients to Mediate BC, and the project is expected to continue until 50 mediations have been conducted.

Mediation Model

The introduction of CSEMP offers a unique approach to mediation for these clients. Although the mediation occurs outside of the court process, the mediators will use an evaluative mediation model where they share information concerning typical common court outcomes for children over the age of majority to assist parents in their decision-making.

Parents in British Columbia have been able to obtain no-cost assistance through Family Justice Centres for many years. The services include providing information, referral to specialized resources, and mediation to resolve parenting issues. Skilled and certified mediators use *facilitative mediation* to assist parents in reaching workable solutions. These mediators do not make recommendations or offer an opinion on the outcome of the case or predict what a court might do if the matter goes to trial.

The CSEMP, in contrast, will use *evaluative* mediation, a process that includes comment on positions and may predict the outcome of a case if it ends up in court. An evaluative mediator may choose to make recommendations. Generally speaking, evaluative mediation focuses on legal rights rather than the needs or interests of the parties. Many mediators using this method are lawyers.

This project uses legally trained and experienced mediators who are accredited family law mediators under the Law Society of BC Rules. They are also members of the Family Roster of Mediate BC. The child may be asked to participate in mediation if the parents consent. Sessions may be conducted in person or through a variety of distance mediation methods that include telephone, Skype, WebEx and other web-based technology depending on the resources of the clients.

Providing parents with the opportunity to work together to resolve eligibility issues and arrive at a mutually agreeable plan for their children has the potential to result in improved communications and greater compliance with the agreed upon child support obligation. From a child support enforcement program perspective, the resulting agreements are expected to provide clearer information for the purpose of making enforcement decisions.

The results of each case are tracked, and a comprehensive evaluation will be conducted at the conclusion of the pilot project to measure the success of evaluative mediation, as well as the usefulness and appropriateness of distance mediation techniques in dealing with child support eligibility issues. A number of advisors are assisting in evaluation design, including Cynthia Bryant, a frequent presenter at NCSEA conferences.

Referral Process

Referrals to Mediate BC are not restricted to FMEP clients, although the FMEP will be the main source of referrals for CSEMP. FMEP referrals are identified through contact with eligible clients in the following situations:

- the child will soon reach the age of majority (emancipation);
- there is a follow-up review of the child's circumstances;
- the paying parent (obligor) disputes continued enforcement for a child over age of majority; or
- the recipient (obligee) wants support re-instated for a child over the age of 19.

If both parents sign a consent form agreeing to participate in the project, FMEP forwards the names, contact, and order information to Mediate BC. From there Mediate BC gathers additional information through its intake process and assigns a mediator.

When the mediator helps the parents to reach an agreement, it is documented as an *Agreement Made in Mediation*. The FMEP will update its payment records to reflect any agreed upon revised amounts. In the event that the parents are unable to reach an agreement, the mediator, with the parents' consent, will complete a Summary of Joint Mediation Session form describing factors related to the child's eligibility. If shared with FMEP, this document may be used by FMEP to assess the enforceability of the child support.

Project Status

To date, about 700 cases have been reviewed by FMEP and about two dozen have been sent to Mediate BC for action. The very early results show that parents are very satisfied with the process. We look forward to seeing the results of the other mediations, as we hope to find out whether or not mediation can be an effective way of resolving these very challenging differences between parents.

As we all know, getting a pilot project started is challenging, especially when new ideas or methods are being proposed. Great credit is due to Yuki Matsuno and Shelina Neallani from Mediate BC, and to Hannah Roots, the managing director of BC's Family Maintenance Enforcement Program. They all have the remarkable talent to see the "big picture" and yet attend to the fine details that ensure the successful completion of the project.

Chris Beresford has been the director of maintenance enforcement in British Columbia since 2001. The BC support enforcement program, the Family Maintenance Enforcement program, has 45,000 cases, serving 85,000 parents and 75,000 children. Each year, over \$190 Million (CDN)/\$194 Million (USD) is paid through BC's FMEP. Chris is a member of the NCSEA Board of Directors and is the current International Commissioner. He has been a presenter at the annual training conference since 2004.