

EASING OF THE ELIGIBILITY CRITERIA RESPECTING THE SUPPLEMENT FOR HANDICAPPED CHILDREN REQUIRING EXCEPTIONAL CARE

This information bulletin gives a detailed description of the changes to be made to the supplement for handicapped children requiring exceptional care, a component of the refundable tax credit for child assistance (RTCCA) since April 1, 2016.

Since 2005, the RTCCA has occupied an important place in Québec's family policy by providing families with financial assistance to help them provide for their children under 18 years of age.

This tax credit, which is paid monthly or quarterly, is composed of a child assistance payment, a supplement for the purchase of school supplies,¹ a supplement for handicapped children and a supplement for handicapped children requiring exceptional care. The child assistance payment, which includes a universal base, is determined according to family income, so that additional assistance is granted to low- and middle-income families. These three supplements are granted irrespective of family income.

The supplement for handicapped children, which is \$192² per month, is granted in respect of a child who has an impairment or a mental function disability that substantially limits the child in performing the life habits of a child of his or her age during a foreseeable period of at least one year.

Given the exceptional handicap situations faced by certain children and their parents, and the major impact that the condition of children who are seriously ill or who have severe disabilities always has on their families, financial assistance has been granted to these families under the tax system since April 1, 2016, through a supplement for handicapped children requiring exceptional care (SHCREC). This supplement of \$962³ per month, which is in addition to the supplement for handicapped children, takes into account the fact that parents of a child who is seriously ill or who has severe disabilities must assume extraordinary responsibilities with respect to providing care, exercising the vigilance necessary to ensure the child's safety and coordinating services. Together with the amount already granted through the supplement for handicapped children, the direct assistance for the families concerned in respect of such a child is therefore \$13 848 for 2018.

¹ Briefly, the supplement for the purchase of school supplies is paid once a year, for the month of July, in respect of a child who, on September 30 of the year, is at least 4 years of age and no more than 16 years of age or, if the child is handicapped, no more than 17 years of age.

² This amount is applicable for 2018.

³ Ibid.

The handicap situation of children in respect of whom the SHCREC is granted is based on a clinical definition, established by a working group in which physicians, pediatricians and rehabilitation professionals participated, and takes into account the conceptual model in *Quebec Classification: Disability Creation Process*.⁴

In general, the SHCREC is granted, for a particular month, relative to a child in respect of whom an individual is, at the beginning of that month, an eligible individual,⁵ where the supplement for handicapped children is also paid for the given month in respect of the child and, according to the prescribed rules, the child is in either of the following situations:

- the child, during a foreseeable period of at least one year, has an impairment or a designated mental function disability entailing serious and multiple disabilities that prevent the child from independently performing the life habits of a child of his or her age (situation A);
- the child's state of health requires, during a foreseeable period of at least one year, specified complex medical care at home⁶ which the child cannot self-administer—care which is therefore administered by the child's father or mother, trained beforehand in a specialized centre to master the specific techniques for using the required equipment and to be able to respond to any change in the child's clinical condition that may endanger the life of the child—and which, if the child is at least 6 years of age at the beginning of the particular month,⁷ limits the child in performing the life habits of a child of his or her age (situation B).

In that regard, only the life habits that a child should perform, for the child's age, to take care of himself or herself and participate in social life and that consist of nutrition, personal care, mobility, communication, interpersonal relationships, responsibilities and education are subject to examination.

To be considered to be in situation A, a child must also be, at the beginning of the particular month, at least two years of age, where the child has an impairment, and at least four years of age, where the child has a designated mental function disability.

A designated mental function disability means a mental function disability that is characterized by a severe or profound intellectual disability or by an autism spectrum disorder associated with both an intellectual disability and a severe behavioural disorder.

⁴ Patrick Fougeyrollas, René Cloutier, Hélène Bergeron, Jacques Côté and Ginette St-Michel, *Quebec Classification: Disability Creation Process*, Québec, International Network on the Disability Creation Process, 1998, 162 pages.

⁵ Briefly, a person is an eligible individual in respect of a child at the beginning of a particular month if, at that time, the person resides with the child at the beginning of the month, is the child's father or mother, is resident in Québec, has (or the individual's spouse has) a recognized status, such as Canadian citizenship or permanent resident status, and is not exempt from tax.

⁶ This complex care is listed in section 1029.8.61.19.3 of the *Taxation Act* (CQLR, chapter I-3).

⁷ This second condition need not be met in the case of a child whose state of health requires care related to a tracheostomy with invasive mechanical ventilation.

Under the prescribed rules, a child who has an impairment or a designated mental function disability entailing serious and multiple disabilities is considered to have disabilities preventing him or her from independently performing the life habits of a child of his or her age only if the outcome of the interaction between the child's disabilities and the environmental factors as facilitators of, and barriers to, the performance of the child's life habits in the child's various living environments causes:

- if the child is less than 4 years of age, an absolute limitation in performing the three life habits that are nutrition, mobility and communication; and
- in other cases:
 - an absolute limitation in performing five life habits and a serious or absolute limitation in performing at least one other life habit, or
 - an absolute limitation in performing four life habits, including mobility, and a serious or absolute limitation in performing at least two other life habits.

Under the prescribed rules, a child whose state of health requires specified complex medical care at home is considered to be limited in performing the life habits of a child of his or her age only if the child has an absolute limitation in performing a life habit⁸ or a serious limitation in performing two life habits.⁹

A limitation in performing a life habit is absolute if the child absolutely cannot independently perform the life habit according to his or her age, despite the existence of environmental factors that are facilitators. A limitation in performing a life habit is serious if the child always or almost always has a serious difficulty in independently performing that life habit according to his or her age, despite the existence of environmental factors that are facilitators.

Lastly, an eligible individual who wishes to receive the SHCREC, in respect of a child, for a particular month must file an application with Retraite Québec no later than 11 months after the end of the particular month. The time for filing the application may be extended for a period not exceeding 24 months, on written request, if the individual shows Retraite Québec that he or she was unable to act and that the application was filed as soon as possible under the circumstances.

⁸ Other than that relating to interpersonal relationships.

⁹ Ibid.

□ **Easing of the criteria used to define the handicap situation of children at least 4 years of age**

In recent months, an examination was carried out in cooperation with the medical team at Retraite Québec, with a view to categorizing the SHCREC applications filed by families whose children do not meet the eligibility criteria as currently set forth in the tax legislation and regulations and allowing payment of the SHCREC in respect of their children. The examination showed that certain children have severe disabilities that require their families to assume responsibilities similar to those assumed by families with a child in respect of whom the SHCREC is currently paid. Thus, so that the financial assistance provided by the SHCREC can be offered to more families while preserving the exceptional nature of this supplement, the criteria used to define the handicap situation of children at least 4 years of age who have severe disabilities will be eased.

■ **Removal of the notion “designated mental function disability”**

The tax legislation and regulations will be amended to remove the notion “designated mental function disability”¹⁰ and refer simply to a mental function disability. From now on, the handicap situation of a child with a mental function disability will be determined, for the purposes of the SHCREC, without reference to a specific diagnosis of severe or profound intellectual disability or of autism spectrum disorder associated with an intellectual disability and a severe behavioural disorder.

For example, the handicap situation of a child who is at least 4 years of age and who has an autism spectrum disorder may be recognized for the purposes of the SHCREC without the disorder being associated with both an intellectual disability and a severe behavioural disorder, provided, among other things, the disorder entails, according to the prescribed rules, serious and multiple disabilities that prevent the child from independently performing the life habits of a child of his or her age during a foreseeable period of at least one year.

■ **Reduction of the number of life habits whose performance must be absolutely limited**

For children at least 4 years of age, the tax regulations will be amended to reduce the number of a child’s life habits whose performance must be absolutely limited. Accordingly, such a child who has an impairment or a mental function disability will be considered to have serious and multiple disabilities that prevent the child from independently performing the life habits of a child of his or her age, where the outcome of the interaction between the child’s disabilities and the environmental factors as facilitators of, and barriers to, the performance of the child’s life habits in the child’s various living environments causes,

- an absolute limitation in performing four life habits, instead of five, and a serious or absolute limitation in performing at least one other life habit, or
- an absolute limitation in performing three life habits, including mobility, instead of four, and a serious or absolute limitation in performing at least two other life habits.

¹⁰ This notion is defined in the second paragraph of section 1029.8.61.19.1R2 of the *Regulation respecting the Taxation Act* (CQLR, chapter I-3, r. 1).

□ Clarification

For greater clarity, the other terms and conditions of the SHCREC, such as the exclusion of a child who is lodged or sheltered under the law or who receives personal home assistance under certain laws,¹¹ remain unchanged.

□ Application date

The amendments respecting the determination of a child's handicap situation will apply to SHCREC payments for months following March 2016, that is, retroactively to the implementation of the supplement.

Retraite Québec will review each application filed for the SHCREC regarding situation A, in respect of a child, and for which Retraite Québec rendered, prior to the day of publication of this information bulletin and where the child was at least 4 years of age, an unfavourable decision due to the child's handicap situation.

Exceptionally, the 11-month delay after the end of a particular month for filing an application with Retraite Québec for the SHCREC, for that particular month, in respect of a child in situation A, will be 11 months after the day of publication of this information bulletin where the particular month ended prior to that day and the child was at least 4 years of age at the beginning of the particular month. However, no amount will be paid as the SHCREC for a period before April 1, 2016, that is, for a period prior to the effective date of the supplement. Retraite Québec will also review each application filed for the SHCREC regarding situation A, in respect of a child, and for which Retraite Québec rendered, prior to the day of publication of this information bulletin, a decision where the SHCREC could not be paid, because of the 11-month delay, for certain months at the beginning of which the child was at least 4 years of age.

By the end of July 2018, Retraite Québec will contact the family of each child in respect of whom an unfavourable decision was rendered further to an application for the SHCREC regarding situation A. Furthermore, if necessary, Retraite Québec will ask families concerned for any additional information that is needed to complete the review.

For information on the changes to be made to the SHCREC, interested persons may contact Retraite Québec at 514 864-3873 if they are in the Montréal region, at 418 643-3381 if they are in the Québec region, and at 1 800 667-9625 (toll-free) if they are elsewhere in Québec. They may also visit Retraite Québec's website at www.retraitequebec.gouv.qc.ca.

The English and French versions of this bulletin are available on the Ministère des Finances website at www.finances.gouv.qc.ca.

¹¹ Under section 158 of the *Act respecting industrial accidents and occupational diseases* (CQLR, chapter A-3.001), section 79 of the *Automobile Insurance Act* (CQLR, chapter A-25) and section 5 of the *Crime Victims Compensation Act* (CQLR, chapter I-6).