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c 200 Health Services Insurance Act

Ontario

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CHAPTER 200

The Health Services Insurance Act

1. In this Act,
   (a) “Board” means the Health Insurance Registration Board established under The Health Insurance Registration Board Act;

   (b) “Council” means the Health Services Insurance Council;

   (c) “dependant” means a dependant of an insured person, as defined in the regulations;

   (d) “designated agent” means an agent designated by the regulations and authorized to discharge certain functions and responsibilities under an agreement made under section 5;

   (e) “Director” means the Executive Director of the Health Services Insurance Division of the Department of Health;

   (f) “insured health services” means all services rendered by physicians that are medically required, and such other health services as are rendered by such practitioners and under such conditions and limitations as are prescribed by the regulations, but not including services that a person is eligible for and entitled to under the Hospital Insurance and Diagnostic Services Act (Canada) or under any other Act of the Parliament of Canada except the Medical Care Act (Canada) or under The Workmen’s Compensation Act;

   (g) “insured person” means a person who is entitled to insured services under this Act and the regulations;

   (h) “Minister” means the Minister of Health;

   (i) “physician” means a legally qualified medical practitioner lawfully entitled to practise medicine in the place in which such practice is carried on by him;

   (j) “Plan” means the Health Services Insurance Plan established under section 3;

   (k) “practitioner” means a person other than a physician who is lawfully entitled to render insured health services in the place where they are rendered;
(l) "Registrar" means the Registrar of the Health Insurance Registration Board;

(m) "regulations" means the regulations made under this Act;

(n) "resident" means a person lawfully entitled to be or remain in Canada, who makes his home and is ordinarily present in Ontario, but does not include a tourist, transient or visitor to Ontario, or a member of the Canadian Forces, or a member of the Royal Canadian Mounted Police Force, or a person serving a term of imprisonment in a penitentiary as defined in the Penitentiary Act (Canada). 1968-69, c. 43, s. 1.

2. The Minister is responsible in respect of the administration and operation of the Plan and is the provincial authority for Ontario for the purposes of the Medical Care Act (Canada). 1968-69, c. 43, s. 2.

3.-(1) The Health Services Insurance Plan is established for the purpose of providing for insurance of the costs of insured health services and such other services on a non-profit basis on uniform terms and conditions available to all residents of Ontario, in accordance with this Act, and providing other health benefits related thereto.

(2) The accounts and financial transactions of the Plan shall be audited annually by the Provincial Auditor. 1968-69, c. 43, s. 3.

4.-(1) It is the function of the Board and it has power,

(a) to determine eligibility and collect premiums for health services insurance as established under this Act and perform all functions necessary for the purpose; and

(b) to perform such other duties as are assigned by this Act and the regulations.

(2) The Director shall approve and assess claims for insured health services and determine the amounts to be paid and authorize the payment thereof, and shall perform such other duties as are assigned to him by this Act or the regulations. 1968-69, c. 43, s. 4.

5. The Minister may enter into an agreement with any person to designate such person as an agent,

(a) to determine eligibility for health services insurance and to enrol subscribers;

(b) to collect premiums for health services insurance;

(c) to pay individual claims for insured health services which have been approved and assessed by the Director in the amounts determined by him; and
(d) to perform such other ancillary and incidental functions as are necessary for the administration of the Plan not inconsistent with this Act or the Medical Care Act 1966, c. 64 (Canada).

or any of them. 1968-69, c. 43, s. 5.

6.—(1) Every person who is a resident of Ontario is entitled to become an insured person upon application therefor to the Board or a designated agent in accordance with this Act and the regulations.

(2) Every dependant of a person who is an insured person as a member of a mandatory group or collector’s group or as a pay-direct participant is an insured person. 1968-69, c. 43, s. 6.

7.—(1) Every insured person is entitled to payment to himself or on his behalf of the amount prescribed under this Act for the cost of insured health services provided by a physician or practitioner on or after the 1st day of October, 1969 and during the period in respect of which his premium is paid, other than insured health services for which the cost is payable under The Hospital Services Commission Act or would be payable if the insured person were an insured person under that Act.

(2) Where a person becomes an insured person, he is entitled to payment for insured health services commencing on the first day of the third month after his eligibility is confirmed by the Registrar or a designated agent, provided that the first premium therefor is paid before that day. 1968-69, c. 43, s. 7 (1, 2).

8. Every person who is an immigrant as defined in the Immigration Act (Canada) for permanent residence in Ontario and applies to become an insured person within three months of his arrival is entitled to payment of the costs of insured health services from the date he becomes an insured person. 1968-69, c. 43, s. 8 (3, 4).

9.—(1) The employees of an employer are a mandatory group if the number of employees who are residents of Ontario, including the employer if he is an individual or a member of a partnership, totals fifteen or more.

(2) Where the employees of an employer who are residents of Ontario, including the employer if he is an individual or a member of a partnership, total more than five but fewer than fifteen, the Board or designated agent shall upon application therefor designate the group as a mandatory group.

(3) Every person who is a member of a mandatory group shall be an insured person in accordance with this Act and the regulations. 1968-69, c. 43, s. 9.
10.—(1) The employer shall deduct from the remuneration of each employee in his mandatory group the premiums required under this Act or such part as is agreed upon by the employer and his employee, but each member of the group is primarily liable to pay the premium.

(2) Nothing in this Act shall be construed to affect any agreement or arrangement for contribution by an employer of all or any of the premiums payable for insurance in respect of his employees and any obligation of the employer thereunder to pay all or any part of the premium for insured health services continues in respect of the payment of the premium for insured health services under this Act.

(3) Where the amount required to be paid under an agreement referred to in subsection 2 by the employer as premium for insured health services, or the part of such amount that is referable to insured health services, is greater than the amount the employer is, by virtue of subsection 2, required to pay in respect of the premium under this Act, the employer shall, until the agreement is terminated, pay the amount of the excess to or for the benefit of the employees and section 37 of The Labour Relations Act applies to differences arising in the application of this subsection in the same manner as to differences arising from the interpretation, application, administration or alleged violation of a collective agreement.

(4) The deduction by an employer from the remuneration of an employee in his mandatory group of the premium required under this Act shall discharge the primary liability of that employee to pay the premium so deducted.

(5) No person shall make any charge for acting in his capacity as the employer of a mandatory group. 1968-69, c. 43, s. 10.

11.—(1) Upon the application of an organization having five or more members who are residents of Ontario and wish to apply for health services insurance, the Board or a designated agent shall designate the organization a collector's group and a member of the group nominated by the group and approved by the Board shall be the collector.

(2) Each member of the group is primarily liable to pay the premium.

(3) No person shall make any charge for acting in his capacity as a collector.

(4) The Board may, at the request of the Government of Canada, designate as a collector's group any group for whom and on whose behalf the Government of Canada undertakes to remit the premiums and information in the prescribed form. 1968-69, c. 43, s. 11.
12. Every person who receives, retains or withholds any amount for the purpose of paying a premium on behalf of an insured person shall be deemed to have received and to be holding the amount in trust for the Treasurer of Ontario and all accounts of such premium amounts shall be kept separate and apart from his own money. 1968-69, c. 43, s. 12.

13. The premium for health services insurance for a single insured person or an insured person and one dependant or an insured person and two or more dependants shall be such amounts as are prescribed by the regulations. 1968-69, c. 43, s. 13.

14. All premiums for health services insurance shall be remitted to the Registrar or a designated agent and shall be made payable to the Treasurer of Ontario. 1968-69, c. 43, s. 14.

15. This Act shall not be administered or construed to affect the right of an insured person to choose his own physician or practitioner, and does not impose any obligation upon any physician or practitioner to treat an insured person. 1968-69, c. 43, s. 15.

16. An insured person who becomes a resident of another province is entitled to remain insured and to payment for insured health services rendered to him,

(a) where he becomes a resident of a participating province under the Medical Care Act (Canada), until his coverage under the medical care insurance plan of that province takes effect or until the expiration of a period of four months, whichever occurs first; and

(b) where he becomes a resident of a non-participating province, or any other jurisdiction, until the expiration of a period of four months,

on the same basis as though he had not ceased to be a resident of Ontario. 1968-69, c. 43, s. 16.

17. The Board may grant assistance in the payment of premiums for such persons and in such amounts as are determined in accordance with the regulations. 1968-69, c. 43, s. 17.

18.—(1) Any insured person who is unable to continue payment of his premiums due to unemployment, illness, disability or financial hardship may, within the first thirty days of his default, apply to the Board for assistance in continuing his entitlement to insured services.

(2) The Board may direct that an applicant under subsection 1 be relieved of the payment of the whole or any part of his premium during his unemployment, illness, disability or financial hardship. 1968-69, c. 43, s. 18.
19. — (1) Subject to subsection 2 of section 21, payment for insured health services rendered by a physician shall be for 90 per cent of the schedule of fees of the Ontario Medical Association in effect on the 27th day of June, 1969, including any minor amendment thereto in respect of any ancillary or incidental matter or in respect of a new procedure.

(2) Payment for insured health services rendered by a physician outside Ontario shall be in the amount actually billed by the physician or the amount provided for in subsection 1, whichever is the lesser.

(3) Payment for insured health services rendered by a practitioner, whether within or outside Ontario, shall be in an amount prescribed by the regulations. 1968-69, c. 43, s. 19.

20. The Minister may enter into arrangements for the payment of remuneration to physicians or practitioners rendering insured health services to insured persons on a basis other than fee for service. 1968-69, c. 43, s. 20.

21. — (1) At least six months before any revision of the schedule of fees of the Ontario Medical Association, the Ontario Medical Association shall notify the Minister of the proposed revision and the Minister shall implement discussions with representatives of the Ontario Medical Association respecting the extent of any proposed change in the schedule of fees.

(2) Where the revised schedule of fees results in an increase in the costs of insured health services under the Plan, the Lieutenant Governor in Council may, notwithstanding subsection 1 of section 19, establish by regulation the schedule of payment that shall be made for insured health services rendered by physicians.

(3) No schedule of payments shall be prescribed by regulation under this section that disqualifies the Plan for contribution by the Government of Canada under the Medical Care Act (Canada). 1968-69, c. 43, s. 21.

22. — (1) Where the physician or the practitioner intends to charge an insured person an amount more than is payable for the insured health service under the Plan, he shall so advise the patient prior to rendering the service.

(2) Every physician and practitioner who performs an insured health service for an insured person shall provide the insured person, or designated agent or the Director, with the particulars of his services and account that are required by this Act and the regulations for the purpose of payment of the claim.

(3) Every insured person shall be deemed to have authorized his physician or practitioner who performed insured health services to provide the Director with such information respecting
23.—(1) Each member of the Board and of the Council and each person employed in the administration of this Act including each employee of a designated agent shall preserve secrecy with respect to all matters that come to his knowledge in the course of his employment and that pertain to insured health services rendered and payments made therefor, and shall not communicate any such matters to any other person except as otherwise provided in this section.

(2) A person referred to in subsection 1 may furnish information pertaining to the date on which an insured health service was provided, the name and address of the person who provided the service, the amounts paid under the Plan for the service and the person to whom they were paid, but such information may be furnished only,

(a) in connection with the administration of this Act and the regulations or the Medical Care Act (Canada); or

(b) in proceedings under this Act or the regulations; or

(c) to the person who provided the service, his solicitor or personal representative, the committee of his estate, his trustee in bankruptcy or other legal representative; or

(d) to the person who received the services, his solicitor, personal representative or guardian, the committee or guardian of his estate or other legal representative of that person.

(3) Information referred to in subsection 1 may, with the approval of the Minister, be published by the Department of Health in statistical form if the individual names of persons are not thereby revealed.

(4) With the consent of the Director, information of the kind referred to in subsection 2 and any other information pertaining to the nature of the insured health services provided and any diagnosis given by a person who provided the service may be disclosed or communicated to the statutory body governing the profession or a professional association of which he is a member if an officer of that body or association makes a written request therefor and states that the information is required for the purposes of investigating a complaint against one of its members or for use in disciplinary proceedings involving that member.

(5) No person engaged in the administration of this Act shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the discharge of his duties, except in a proceeding under or authorized by this Act. 1968-69, c. 43, s. 23.
24. No action lies against a person providing insured health services or a member of his staff in respect of the furnishing to the Plan of information relating to insured health services provided by him. 1968-69, c. 43, s. 24.

25.—(1) On the 1st day of October, 1969, every contract of insurance for the payment of all or any part of the cost of insured health services performed in Ontario and received by any person eligible to become an insured person under this Act is void and of no effect in so far as it makes provision for insuring against such costs and no person shall enter into or renew such a contract except under this Act.

(2) Subsection 1 does not apply to a contract of insurance entered into by a resident whose principal employment is in the United States of America and who is entitled to enter into the contract by virtue of his employment. 1968-69, c. 43, s. 25.

26.—(1) There shall be a Health Services Insurance Council, consisting of not fewer than nine members who shall be appointed by the Lieutenant Governor in Council and of whom a majority are representatives of the public, two are representatives of the medical profession nominated by the Ontario Medical Association and two are representatives of the designated agents.

(2) The Lieutenant Governor in Council shall designate one of the members of the Council who are representatives of the public as chairman, and in the case of a tie vote, the chairman shall have an additional vote.

(3) The Lieutenant Governor in Council may fill any vacancies that occur in the membership of the Council having regard to the balance of representation provided in subsection 1.

(4) A majority of the members of the Council constitutes a quorum. 1968-69, c. 43, s. 26.

27.—(1) The functions of the Council are,

(a) to receive and investigate complaints in respect of the operation of the Plan;

(b) to advise and make recommendations to the Minister in respect of the operation of the Plan;

(c) on the direction of the Minister, to conduct the discussions with the Ontario Medical Association referred to in subsection 1 of section 21 and report and make recommendations to the Minister in respect thereof;

(d) advise and make recommendations to the Minister respecting the premium rate; and

(e) perform any other function given it by the Minister or by any Act or regulation.
(2) For the purposes of clause (a) of subsection 1, the Council may require any designated agent or the Board or the Director to furnish the Council with such information respecting the matter complained of as the Council requires. 1968-69, c. 43, s. 27.

28. The Director may refer any claim or claims to a committee established under clause (k) of section 32 for the purpose of assessing claims and the amounts thereof with particular reference to possible misuse or abuse of the Plan, and the committee shall report its conclusions and recommendations to the Director. 1968-69, c. 43, s. 28.

29. Every person who,

(a) obtains payment under this Act or the regulations for insured health services for himself or for his benefit; or

(b) aids or abets any other person in obtaining payment under this Act or the regulations for insured health services for such other person or for his benefit,

knowing that he or such other person is not entitled to the payment, is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 43, s. 29.

30.—(1) Subject to subsection 2, an employer, collector or designated agent who fails to remit the premiums required to be remitted under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than $2,000.

(2) Where an employer, collector or designated agent is convicted of an offence under subsection 1, the provincial judge shall determine the amount of the premiums the employer failed to remit and shall make an order requiring the person convicted to pay the amount so determined to the Registrar.

(3) Every director or officer of a corporation who knowingly concurs in a failure to remit the premiums required to be remitted by the corporation under this Act is liable, jointly and severally with every other such officer and director, to make a payment ordered to be made under subsection 2. 1968-69, c. 43, s. 30.

31. Where an employer, collector or designated agent that is a corporation fails to remit the premiums required to be remitted under this Act, and

(a) goes into liquidation;

(b) is ordered to be wound up;

(c) makes an authorized assignment under the *Bankruptcy Act* (Canada); or

R.S.C. 1952, c. 14
(d) has a receiving order under the Bankruptcy Act (Canada) made against it,

the directors thereof are jointly and severally liable for the payment of the amount of the premiums in default. 1968-69, c. 43, s. 31.

Regulations

32. The Lieutenant Governor in Council may make regulations,

(a) providing for the enrolment of persons as insured persons;

(b) prescribing who are dependants of insured persons for the purposes of this Act;

(c) prescribing the persons who shall be deemed employees for the purposes of sections 9 and 10 and the employees who shall be members of a mandatory group;

(d) governing the collection, accounting for and remission of premiums by employers of mandatory groups and by collectors and requiring employers and collectors to furnish such information and returns as is prescribed;

(e) prescribing the amounts of premium payable for a single insured person, an insured person and one dependant and an insured person and two or more dependants and governing the time and manner of payment;

(f) prescribing the qualifications for assistance in the payment of premiums and for determining the amount thereof;

(g) specifying what services other than medical services are insured health services for the purposes of the Plan, and prescribing what practitioners may render such services and under what conditions such services are insured health services, and prescribing the amount of payment for such insured health services;

(h) prescribing services that shall be deemed not to be insured health services for the purposes of this Act and the conditions under which the costs of any class of insured health services are payable and limiting the payment commensurate with the circumstances of the performance of the services;

(i) providing for the making of claims for payment of the cost of insured health services and prescribing the information that shall be furnished in connection therewith;

(j) designating persons with whom agreements under section 5 have been entered into;

(k) establishing committees for the purpose of section 28;
prescribing additional duties of the Council, Director, Board or Registrar;

providing for payment to the Treasurer of Ontario by insurers of the amounts of claims in respect of the cost of insured health services that would otherwise be payable to insured persons;

subrogating the Health Services Insurance Division to any rights of recovery by an insured person in respect of payments for insured health services paid by the Division and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled;

specifying categories of persons to whom the waiting period referred to in subsection 2 of section 7 does not apply;

establishing programs for other health benefits referred to in subsection 1 of section 3 and prescribing the terms and conditions of such programs;

prescribing forms for the purposes of this Act and providing for their use. 1968-69, c. 43, s. 32.

The Minister shall make a report annually to the Lieutenant Governor in Council upon the affairs of the Plan, and every such report shall contain the report of the Provincial Auditor under section 3 which shall include his certificate as to whether the accounts and financial transactions of the Plan including those of designated agents meet the requirements of this Act, and the Minister shall lay the report before the Assembly if it is in session, or if not, at the next ensuing session. 1968-69, c. 43, s. 33.

The expenditures necessary for the purposes of the Plan shall be paid out of the moneys appropriated therefor by the Legislature. 1968-69, c. 43, s. 34, amended.