



Ontario extends disability definition to include maternity

Recent changes to Ontario's *Employment Standards Act (ESA) 2000* require plan sponsors to provide disability benefit coverage during the *health-related portion* of a mother's maternity leave. Until September 2001, the ESA permitted the exclusion of female employees from certain benefit plans during pregnancy leave. This provision has been repealed with these amendments and allows the Employment Standards Act to conform to human rights case law.

Case law from Manitoba and Alberta has indicated that, since the early 1990s, human rights legislation would not allow an employer to refuse a woman access to sick leave during the health-related portion of a maternity leave.

The health-related portion is the period in which a woman can establish that she is unable to work because of *giving birth*. Case law has recognized that the majority of medical experts agree that six and eight weeks respectively for normal delivery and cesarean section as the average disability periods. However, other insurers recognize only two and four weeks for the respective methods of delivery.

The health-related portion normally begins on the date of delivery. This portion could begin prior to the delivery date and may last beyond the normally expected period of convalescence in the event of pregnancy-related complications.

Whether for the act of childbirth or for complications during pregnancy, a plan member must always file a claim through her benefit plan and provide the necessary medical evidence. All other constituted requirements of the plan must be satisfied in order for benefits to be paid.

How a claim may be treated will depend on a plan's design. The design of a short-term disability (STD) or a long-term disability (LTD) plan may require that it pay the entire benefit during the health-related portion of a maternity leave. Or, a plan sponsor may establish a supplemental unemployment benefits (SUB) plan to be administered by the insurance carrier. In the latter case, the insurance plan would top up the amount payable under Employment Insurance (EI) so that the total payable would not exceed that which would have been payable under an STD or LTD plan had there been no health-related portion. A SUB plan can also be administered by a plan sponsor.

Expect further developments within the insurance industry on issues relating to the health-portion of a maternity leave and its treatment under insured and self-insured plans. To learn more about the design of your benefit plan or the options available to plan sponsors, contact your Coughlin & Associates Ltd. consultant.

Information on the Employment Standards Act can be viewed on the Ontario Ministry of Labour's website at www.gov.on.ca/LAB/es/ese.htm.

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PPN update

Zeller's Pharmacy at 59 Robertson Road in Ottawa has joined the Coughlin & Associates Ltd. Preferred Provider Network.

The Russell IDA Pharmacy is no longer a member of the network.

Be sure your paramedical professional is officially certified



One of the problems of living or working in border communities is that services in one community may not necessarily be recognized in another, despite the fact that their residents may live almost next door to each other.

Employees and members of some plan sponsors in the Ottawa area recently experienced this problem first-hand when they submitted claims for reimbursement for naturopathic services and/or massage therapy. Quebec's standards for professional certification for these paramedical services are not necessarily accepted in Ontario (or vice-versa). The result: rejected claims and confusion.

To practice in Ontario, massage therapists must be certified by that province's College of Massage Therapists. They are required to hold a diploma in massage therapy from a recognized college of applied arts and technology or equivalent

institution. This involves passing a requisite number of courses and examinations.

Similar regulations apply to naturopaths and naturotherapists, who are required to be certified by the Ontario Board of Drugless Therapy: Naturopathy.

Quebec's certification standards are different from those of Ontario and are not necessarily recognized by that province. This means that a massage therapist or naturopath's professional accreditation may not be recognized in Ontario, despite the fact that he/she is accredited in Quebec.

Most group benefit plans require that *professionals be certified in the jurisdiction in which they practice*. For example, a doctor practicing in New Brunswick must be certified and recognized by that province's governing medical body before being licensed to

practice in that province, even if he or she has a medical degree from another province or country. The same principles apply to massage therapy, naturopathy and other paramedical services. Without such certification, the practitioner is considered to be unqualified to provide advice or services -- and any claims involving him/her must be rejected by plan administrators or insurers.

However, despite these complications, there is an easy way to ensure that employees'/members' paramedical claims are recognized and adjudicated: *Ask your employees/members to be sure their paramedical practitioner or medical professional is certified by the governing body of the province in which he/she practices before agreeing to treatment.*

Despite the differences in certification standards between jurisdictions, claims will always be adjudicated when the professional has a valid accreditation from the jurisdiction in which he/she practices. For example, a claim for naturopathy services from a practitioner based in Quebec will be considered valid if he/she is certified by that province; a claim for massage therapy by an individual licensed and practicing in Ontario would also be recognized. However, things may get complicated when professionals practice outside their licensing jurisdictions. An Ontario certification may not necessarily be recognized in Manitoba or another province and Quebec's professional certifications are not always recognized in Ontario.

So, if your members or employees live in Ottawa-Hull, Lloydminster, Sarnia, St. Stephen or any other border community, be sure they confirm that their medical or paramedical professional is certified by the governing body of the jurisdiction in which he/she practices.

Obesity weighs on health care costs

Obesity accounts for more healthcare expenses than smoking, according to a recently released study by the University of California at Los Angeles (UCLA).

According to the UCLA report, expenses linked to obesity increased US health care costs by an average \$395 per person compared to \$230 for smoking. Obesity has been linked to conditions such as diabetes, heart disease, stroke and some forms of cancer and indirectly increases the costs of both clinical treatment and medication.

The number of obese people in North America has doubled in the past decade, according to reports. And, the problem is not necessarily confined to the older segments of the population. Approximately one-third of American and one-quarter of Canadian children are now considered obese. According to the UCLA study, poor eating habits and inactivity account for most cases of obesity.

If left unchecked, this trend could result in increased demand for medical and

prescription drug services and place additional strain on benefits programs. To address these concerns, plan sponsors may want to consider introducing nutritional counselling services, available in some employee assistance programs, as well as employee fitness programs. Contact your Coughlin & Associates Ltd. consultant for information about the various employee assistance programs that are available.

Ontario confidential: Province proposes tough privacy rules

Privacy regulations and the need to protect employees' and members' personal information are beginning to dominate the agendas of plan sponsors and administrators.

Following the passing of the federal privacy protection law, Bill C-6, the Ontario government has launched a province-wide forum to review its proposed privacy legislation which, if passed, is expected to go into effect in early 2004.

If passed, the new rules are expected to have a major impact on the administration of single and multi-employer benefits programs.

Ontario's proposed regulations are both complex and stringent, covering the use of personal and medical information. The following is a summary of various points contained in the proposed legislation. However, plan sponsors are urged to review the legislation in its entirety on the Ontario Ministry of Consumer and Business Service web site: www.cbs.gov.on.ca. Follow the links under Privacy Protection.

1. The principles

According to the Ontario government, if enacted, the new privacy act would be based on the following guidelines:

1. **Accountability.** An organization will be responsible for personal information in its custody or control.
2. **Purpose.** The purpose for collecting personal information must be clearly identified either at the time or before the information is collected.
3. **Consent.** An individual must expressly consent to his/her personal information being used or disclosed.
4. **Limited collection.** Information collected must be limited only to the purposes identified. It cannot be used for any other purpose.
5. **Limited disclosure and retention.** An organization cannot disclose individual personal information for purposes other for which it was collected without the consent of the individual or unless required by law. Plus, information can only be retained for as long as necessary to fulfill the purposes for which it was collected.
6. **Accuracy.** All personal information must be accurate and up-to-date.
7. **Safeguard.** Personal data must be protected by appropriate safeguards, whether physical, such as storing personal information in locked cabinets in secure zones within an office, or electronic through encryption or other means.

8. **Openness.** Organizations will be required to disclose their policies and practices relating to the management of personal information.
9. **Access.** Individuals may access their information and be able to challenge the accuracy or completeness of the data and have it amended.
10. **Challenge.** Individuals may challenge an organization's compliance with the privacy regulations and address concerns to a specified individual.

2. Consent

Express, informed consent forms the foundation of the proposed law. In this context, express consent must:

- be provided by a capable person;
- relate to the information in question;
- be informed;
- be voluntary;
- not be obtained through coercion or deception; or
- not to have been withdrawn.

Organizations will not be allowed to require individuals to consent to the collection of personal information for any use beyond a specific purpose. For example, it would be illegal for a lending institution to require an individual to submit personal information for a mortgage or credit card in order for him or her to first purchase an RRSP or obtain a loan. Consent must be obtained in a way that proves an individual understands how his/her personal information will be collected or used.

The new rules also allow *implied consent* when the use of personal information is obvious or related to a situation where an individual has already provided express consent. For example, he/she would not be expected to give consent for a medical laboratory to study his/her blood sample if he/she had already given the sample to his/her doctor for testing.

The Ontario proposal does not make any distinction between minor children and adults. Therefore, in theory, a child may have to expressly consent to having his/her personal information used for insurance or other purposes. However, background information provided by the province suggests that a test will be available to determine an individual's capacity to provide and understand the nature of his/her consent. This should allow members/employees to disclose

personal information about their dependants to other parties such as insurers and medical professionals, if required. How the test will be designed or administered is still to be determined.

Many details of this legislation still have to be finalized before they become law. However, it is clear that the new rules may affect everything from record keeping to benefits plan governance. Watch for more information on this topic in coming issues of the Coughlin Courier.

Alberta and Saskatchewan form health care monitoring bodies

The provinces of Alberta and Saskatchewan have launched initiatives to establish central databases of chronic care patients and prescription drug users.

On May 24, the Alberta Research Council and the Calgary Health Region announced that they plan to establish a web-based electronic health record system to monitor the long-term care of people with Type 2 diabetes. The Council and Region hope that the long-term monitoring of diabetes patients will provide better information to health care providers treating the illness and improve health outcomes, thereby reducing the strain on the health care system. If successful, the system could be extended to cover the management of other chronic conditions.

Meanwhile, the province of Saskatchewan has passed Bill 39, allowing the Ministry of Health to establish a personal health information database to monitor which drugs are being prescribed or dispensed in the province.

The database will be used to plan, monitor and deliver appropriate treatments to patients, improve drug inventory management and police prescription drug abuse, the province says.

The privacy implications of these initiatives are still to be determined.

- The government of Manitoba says that it expects to increase Pharmacare plan deductibles between \$1 and \$5 per month. In its April budget announcement, the provincial government assured Manitobans that those with low incomes will experience the smallest increases.
- British Columbia has approved the use of Remicade® and Enbrel® for the treatment of severe active rheumatoid arthritis in adults. Pediatric patients with the illness will be eligible for coverage under practitioner special authority. They will not have to go through a special authority process.

- On July 1, Saskatchewan will eliminate the \$850 semi-annual deductible on its provincial drug plan for those requiring special support. Financial assistance will now only be available when prescription drug costs exceed 3.4 per cent of total family income.

- A recent Nova Scotia study indicates that 64 per cent of heart patients use some form of alternative therapy. Only 39 per cent of those patients said they had adequate information on the risks, benefits, side effects or potential drug interactions of the alternative treatment. Dietary supplements and herbal medications accounted for the largest portion of therapies disclosed. Be sure to consult a doctor or pharmacist before taking other medications with prescription drugs.

- Ontario's Workplace Safety & Insurance Board (WSIB) reports that it accepted 294,703 claims in 2000. A total of 104,154 claims involved injuries requiring claimants to take time off work.

- The US National Eye Institute says that the number of Americans who are blind or suffer from severe visual impairment is expected to double in the coming decades. Diabetes, age-related macular degeneration, cataracts and glaucoma are leading causes of blindness. This data reinforces the importance of appropriate vision care programs. Contact your Coughlin & Associates Ltd. consultant for more information about vision care benefits.

- A three-year study by Atlanta's Rollins School of Public Health at Emory University indicates that more than half of those who use a computer 15 hours a week or more report neck and shoulder pain. Nearly 40 per cent of computer users develop hand or arm problems and 21 per cent actually develop hand and arm disorders. Proper positioning of keyboards, seating, armrests and vision lines can reduce these symptoms, the report says.

Drug costs expected to triple in 10 years

Drug costs are expected to triple by the end of the decade, according to Dr. Steven Semelman, vice-president of health management services at ESI Canada.

Speaking at a recent Pharmacy Outcomes Conference, Dr. Semelman forecast that, among other pressures, the introduction of drugs specifically designed to treat individual health conditions could help escalate Canadian drug costs to the \$30 billion level within 10 years.

These predictions are similar to those outlined at the International Foundation of Employee Benefit Plans' Ottawa Legislative Update, May 9-10. In a presentation to 250 conference attendees, Chris Bonnett, past chair of the Canadian Council on Integrated Healthcare, forecast that the use of gene-based therapies will gradually replace mass-based drug products and treatment programs. While genomic therapies are expected to be far more effective in treating and preventing serious illness, their customized approach is expected to de-stabilize today's health care cost regime.

The first genomic drug is expected to be on the market between the years 2003 and 2007.

