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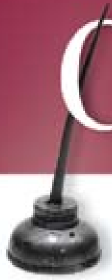

JANUARY 2007

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Court recognizes multi-parent families

The Ontario Court of Appeal has recognized multi-parent families.

In a precedent setting judgement, the province's highest court approved an application by a same sex couple and the biological father of a child to be recognized as the child's legal parents. In effect, the child will have two mothers and one father, radically changing traditional definitions of the terms *parent* and *family*.

The case involves two London-area women who have been in a conjugal relationship since 1990. When they agreed to have a child, they asked a male friend to be the biological father. He agreed and has continued to maintain a close and supportive relationship with both women and the child. (See the October 2006 edition of the *Coughlin Courier* for background.)

In their submission to the Court, the couple maintained that since same-sex couples require assisted human reproduction -- an individual of the opposite sex -- to have a child, it is discriminatory that the biological mother and father of the child be recognized as its only parents, especially when the second woman fully shares the parental responsibilities.

The ruling was opposed by various religious and community groups who argued that a second woman's relationship with the child was no different than that of a step-parent, guardian or other caring relative.

It is unclear whether the case will be appealed to the Supreme Court of Canada.

For plan sponsors, the acceptance by the judiciary that parental definitions can include more than just one woman and one man could result in complications as dependant claims, co-ordination of benefits arrangements and spousal definitions grow to include three -- or more -- legally recognized parents. Just as spousal definitions in group insurance contracts changed to accommodate same-sex relationships, similar reforms could occur with parental and dependant coverages.

Lack of pharmacare plan "outrageous"

Former Saskatchewan Premier Roy Romanow says it is *"outrageous"* that Canada still does not have a catastrophic drug care program, four years after both he and Senator Michael Kirby recommended the adoption of a national pharmacare plan.

The author of one of the two highly regarded health care reviews conducted in 2002 says that cancer patients and others are taking out loans and rationing medications in order to afford costly drugs.

"We're talking about people losing their life savings or going without care. It's outrageous," he says.

According to articles published in the *Globe and Mail*, 3.5 million people have little or no insurance coverage to pay for catastrophic drugs. The situation is particularly bad in Atlantic Canada where 600,000 people, one in every four, have no drug coverage.

In his 2002 report on the future of health care, Mr. Romanow proposed that the federal government cover 50 per cent of individual drug benefit costs when they exceed $1,500 per year. A similar report by Senator Michael Kirby also called for national pharmacare coverage to take effect when individual drug costs exceed two per cent of income.

The costs of implementing such schemes range from a low of $600 million per year to as much as $10 billion.

With costs rising at an annual rate of approximately 15 per cent, drugs are the fastest rising expense of Canada's medicare system.

Most of us still dream of early retirement

The lure of early retirement is just too good to resist.

While most people seemed to have abandoned the highly publicised concept of retirement at age 55, most still dream of retirement well prior to age 65. According to a national survey conducted by SOM Marketing for Desjardins Financial, most people hope to retire by age 60.

According to the survey of more than 1,600 people across Canada, only 11 per cent of workers age 40 or older plan to retire at age 65 or older, the rest chose younger ages with 60 being the average. This, despite the fact that almost 90 per cent of those surveyed are either satisfied or somewhat satisfied with their current jobs. Only five per cent said they would never retire.

"Having time to enjoy life" was reported as the main reason for the drive to exit the workforce at 60.

The results could be bad news for employers facing growing labour shortages, particularly in high-growth areas such as Alberta and parts of central Canada.

"Having time to enjoy life" was reported as the main reason for the drive to exit the workforce at 60. More than 40 per cent cited that as the primary reason for considering retirement. Only nine per cent said they expect to have accumulated enough money to retire by that age. Even fewer listed reasons such as age, lack of interest in work, health problems, family responsibilities or other issues for their post-employment plans.

Can anything stop the planned rush to retirement by the 40-plus generation? Not much, according to the Desjardins study. When asked what could your employer offer to delay your full retirement, 54 per cent of respondents answered *"Nothing."* Improved salaries and benefits followed well behind at 20 per cent and the opportunity to work part-time followed that at 10 per cent.

However, the survey results indicate that workers over age 40 aren't entirely self-focused. A total of 62 per cent said they would definitely or possibly consider postponing their retirement if a replacement wasn't found. The number increased among those with smaller savings and investment portfolios.

While the Desjardins study suggests that today's workforce seems firmly committed to retiring as early as possible, its survey among those already retired overwhelmingly confirmed that once a worker becomes a retiree, he or she tends to stay retired. Only 20 per cent of retirees surveyed said they would return to work for *"a very good or better salary."* Part-time or flex-time opportunities would attract an additional 10 per cent. Interesting or fulfilling activities was mentioned by an additional eight per cent of respondents.

Those results were confirmed when retirees were asked to describe their retirement income. More than 80 per cent of retired individuals surveyed said their retirement income was *adequate* and only 38 per cent described their lifestyle and standard of living as being *significantly* lower than it was prior to retirement. In another question, about the same number, 35 per cent, said that their lifestyle was lower than they expected while 65 per cent expected a reduced lifestyle after leaving their jobs.

Dodge defends DB plans

Bank of Canada Governor David Dodge defended defined benefit pension plans before a parliamentary committee this fall.

Mr. Dodge asserted that it was *"very important"* for the stability of future savings plans and the economy that workers be able to participate in defined benefit plans.

"We should have a framework that is not biased against the establishment of those plans," he told parliamentarians. *"What we've seen is employers increasingly back out. Our view is that these are very important sources of savings for the economy and the stability in the period going forward."*

He went on to recommend the establishment of *"neutral"* accounting, legal and regulatory frameworks to encourage employers to retain or establish defined benefit pensions.

More contributing to RRSPs

Canadians contributed more than $30.6 billion to their registered retirement savings plans (RRSPs) in 2005, an increase of 6.2 per cent from the year earlier.

In a report released this past November, Statistics Canada says that the number of RRSP contributors reached the highest levels ever, 6.2 million people. Despite this news, the percentage of those making contributions remains low, the government agency says. Only 31 per cent of tax filers reported making RRSP contributions in 2005.

The median contribution nationwide in 2005 was $2,630. Nunavut had the highest median contribution level at $4,300, followed by the Northwest Territories and Yukon at $3,490 and $3,170 respectively. Prince Edward Island had the smallest median contribution level, at $2,050.

Life expectancy of HIV patients now 24 years

Less than 20 years ago, a diagnosis of HIV/AIDS amounted to a death sentence. Now, an American diagnosed with the AIDS virus can expect to live an average of 24 years, according to a study released by the Weill Cornell Medical Centre of New York.

Thanks to new medications, most of which have been introduced in the past 10 years, AIDS sufferers can expect to live as long as many of those suffering from other chronic illnesses such as heart disease and some types of cancer.

However, the medications that are now extending the lives of AIDS victims do not come cheaply. According to the study, the average monthly cost of care amounts to $2,100 US per month, or $25,200 per year, two-thirds of which is spent on medications. That compares to $18,300 annually in 1998.

It seems clear that today's medications are far more effective than those used in the 1990s. In 1993, the estimated life expectancy of a person infected with HIV/AIDS was just *seven* years. Approximately two dozen new HIV fighting anti-retroviral drugs have been introduced since that time, including efavirenz, emtricitabine and tenofovir, which reduce the conditions that allow the virus to reproduce itself. A typical regimen featuring these drugs costs over $1,100 per month.

Based on this study, an AIDS patient can expect to spend approximately $618,000 in drug and medical treatments in the 24 years following diagnosis, roughly the same as those with heart disease.

However, getting the proper treatment in time is still a major challenge. According to the Kaiser Family Foundation, a major US health research organization, only 55 per cent of Americans with HIV/AIDS actually receive the new medications. In other parts of the world, such as Africa and some parts of Asia, the chances of receiving up-to-date medicines are almost nil.

For plan sponsors, this study of 7,000 HIV/AIDS patients in 18 US medical centres highlights two important points:

- that this once deadly disease is now treatable and infected employees or plan members could, with time and proper medical attention, be expected to return to the workforce; and
- that return could be accompanied by large and continuing drug claims throughout the remaining years of the employee's career.

Germany, UK to raise retirement age

The process of reforming Europe's generous public pension plans has begun.

The German cabinet has approved plans to increase that country's retirement age from 65 to 67, beginning in 2012.

Facing a shrinking birth rate and a growing number of citizens nearing the normal retirement age, lawmakers in Europe's largest economy hope to encourage people to remain in the workforce longer. Only 45 per cent of Germans over the age of 55 are employed.

With the workforce expected to shrink by 22 per cent by 2050, there is serious concern about the long-term viability of that country's government pension plan.

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Transition LTD coverage for employees: an employer's perspective

The risk

Most employees with employer-sponsored LTD coverage rely solely on this coverage for their disability insurance protection. If their employment ends due to outplacement, they are typically left with no coverage as most employers discontinue LTD coverage on the last day worked or, possibly, at the end of the minimum statutory notice period.

However, recent legal cases suggest the employer may have a legal obligation to continue all benefits, including disability coverage, during the entire severance period. As one lawyer recently observed:

"...employers who fail to maintain disability coverage for their employees during the full period of reasonable notice will be deemed to step into the shoes of the insurer and effectively become the insurer. In the most extreme example, it is possible that an employer could find itself paying disability payments to a terminated employee until the employee turns 65..."

When disability coverage is extended to terminated employees, the risk of claims increases substantially. And when claims do occur, it is more difficult to assess the claimant's ability to work, or successfully return to work, since he/she is unemployed. For this reason, insurers are cautious in extending disability benefits to outplaced employees. Even if group insurers were willing to extend this coverage, an employer who does so increases the risk of adverse claims experience and a resulting rate increase to their entire group LTD plan.

The employee needs this coverage just as much during their transition period as when he/she was working. Unfortunately, regular individual disability insurers will not offer coverage to outplaced employees.

The solution: *Transition LTD*

Transition LTD was designed to provide disability coverage for outplaced employees during their career transition period. It provides important disability protection against a longer term, career-threatening disability.

Part of an employer's severance package

Transition LTD may be purchased by a terminated employee individually or may be provided as part of the employee's severance package.

Premium cost

Transition LTD coverage is normally provided to match the period of severance (from six months to 24 months). The single premium cost of the coverage varies by age and gender. The cost is usually one to three per cent of the severance allowance cost. A partial premium refund is also available if an insured becomes re-employed and obtains new group LTD coverage.

Transition LTD key features

Transition LTD was designed to wrap around a severance or salary continuance plan and to match as closely as possible the coverage provided by an employer's group long-term disability plan.

- **Benefit formula based on employee's final salary**

  The benefit amount may be a graded non-taxable amount similar to the formula provided by the employer's group LTD plan. Or, the benefit amount may be a specific monthly benefit.

- **Definition of *disability*: "two-year regular occupation"**

  The definition of *disability* used in the contract is "two-year regular occupation", similar to the definition used by many group long-term disability plans.

- **Benefit period to age 60 or 65**

  Terminated employees now have a choice of benefits to age 60 or 65.

- **Coverage only applied for when required.**

  It is not necessary to pre-fund the premium cost of *Transition LTD*. The coverage may be applied for only when an employee is terminated.

Recommendation

In today's business environment, an employer cannot guarantee job security for its employees. One of the things that an employer can do, however, is to treat employees well at termination.

Transition LTD can provide needed coverage to the terminated employee, while eliminating the potential risk of the employer being responsible for disability payments to an employee after his/her termination. At the same time, it shields a group plan from the adverse experience that could result from extending LTD benefits to the terminated employee.

In a recent newsletter, a lawyer concluded as follows:

"Not all third party insurers will continue disability benefits beyond the date of dismissal. In such cases, consider instead sourcing alternate coverage and assuming the cost for the dismissed employee."

For more information on this product, contact Coughlin Individual Financial Services Consultant Jackie Moulton at: **jmoulton@coughlin.ca**

Germany, UK to raise retirement age ◂ *continued from page 3*

In the meantime, British Work and Pensions Secretary John Hutton has warned that the retirement age in the United Kingdom will have to be raised to 68 or the country will be forced to raise income taxes.

"We either have to pay more tax or work longer," he says. *"The labour market is changing; our pension system will have to reflect that."*

Like other western European countries, the US and Canada, Britain is facing growing funding pressures as its public pension plan attempts to cope with the pending retirement of the baby boom generation and a shrinking workforce.

Both Italy and France are also considering similar reforms to their public pension plans.

The normal retirement age for the Canada/Quebec Pension Plans remains age 65. However, throughout the 1990s, Canada steadily increased contribution levels for its public pension plans to the current level of 4.95 per cent of individual pensionable earnings to a combined employer-employee maximum of 9.9 per cent. The C/QPP is considered to be viable well into the 2080s.

Ontario to regulate Chinese acupuncture and medicine

The Ontario government says it plans to regulate traditional Chinese medicine and practices such as acupuncture.

Bill 50, which was passed on December 20, 2006, requires that practitioners be accredited with a new self-regulating body to be called the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, similar to the way other medical and paramedical professionals are governed. The new body will be responsible for establishing standards, licensing and disciplinary procedures. It is expected to be fully operational within two to three years.

The formation of the College follows charges of lax hygiene and malpractice against some traditional Chinese healers. Among them: re-using disposable acupuncture needles and the puncturing of patients' lungs and arteries in bungled medical treatments. As well, physicians and pharmacists have questioned the efficacy of the diagnoses and remedies prescribed by many traditional Chinese herbalists.

There are approximately 3,000 traditional Chinese acupuncturists in Ontario. Estimates indicate that number could be reduced to 800 once formal licensing requirements are established by the new regulatory agency.

Ontario and British Columbia are the only provinces to regulate traditional Chinese medicine and acupuncture. Quebec and Alberta regulate acupuncture only.

For plan sponsors in Ontario, the new regulations will likely influence how insurance companies and third party administrators treat acupuncture services rendered by practitioners of traditional Chinese medicine. More information will be provided as it becomes available.

Government ponders extension of disability benefits

The federal government may extend the disability benefits it provides under the Employment Insurance (EI) Plan.

According to published reports, Human Resources and Social Development Canada wants to increase the EI disability benefit period from the current level of 15 weeks to 50 weeks.

The change is designed to close the disability coverage gap that exists in government benefit plans. The Employment Insurance Plan provides 15 weeks of coverage for people who are seriously ill but likely to return to work, while the Canada Pension Plan (CPP) offers a disability income to contributors who are unlikely to return to work after being disabled for at least one year. However, many illnesses such as cancer, lupus, AIDS, chronic fatigue syndrome and others have periods of remission where an employee returns to good health at least temporarily. Sufferers of such illnesses may not qualify for CPP when their EI benefits expire because they don't meet the government's disability definition.

For others, it is simply a case of their disability extending into the 35-week gap between the time the EI benefits end and CPP benefits begin.

Many workers are protected from falling into the 35-week government benefits gap through the weekly indemnity and long-term disability benefits plans offered through their employers or unions. However, more than 7.3 million Canadian workers aren't covered by private benefit plans.

If introduced, the new program will attempt to provide incentives for those with moderate or episodic disabilities to remain in the workforce while discouraging disabled workers from becoming totally dependent on social benefits.

FAST FACTS

- The maximum pensionable earnings for Canada Pension Plan contributions will increase in 2007 from $42,100 to $43,700. The maximum employer and employee contributions levels will be $1,989.90, or $3,821.40 for the self-employed.

  Contribution levels remain unchanged at 4.95 per cent of pensionable earnings to a combined employer-employee maximum of 9.9 per cent.

- Unemployment Insurance rates for employees in 2007 will reduce to $1.80 per $100 of insurable earnings from the 2006 level of $1.87. The employer rate will decline from $2.62 to $2.52 per $100 of insurable earnings. In Quebec, the employee and employer rates per $100 of insurable earnings will be $1.46 and $2.04 respectively.

  The maximum insurance earnings level for 2007 will be $40,000, its first increase since 1996.

- The government of Saskatchewan has introduced legislation to eliminate mandatory retirement at age 65. Similar to legislation recently implemented in Ontario, the new law prevents employers from requiring employees to retire when they reach age 65. Exceptions apply to occupations such as police, firefighters and other jobs where advancing age could affect performance or occupational safety.

- The Canadian Institute for Health Information (CIHI) reports that provincial and territorial spending on health care will grow 5.7 per cent in 2007 to $96 billion. Health care now accounts for an average of 38.6 per cent of provincial and territorial spending.

  On a per capita level, Alberta is expected to spend the most on health care at $3,315 per person. Manitoba is a close second at $3,284 per person. Quebec is expected to be the lowest spender at $2,581 per person.

- The widow of an Air Canada pilot is suing the national airline, claiming she is entitled to 100 per cent of her late husband's pension benefits, rather than the 60 per cent provided by the company. According to the woman, Air Canada refused to recognize her right to change her husband's survivor income options on his behalf when he was dying, despite the fact that she was granted power of attorney and completed a retirement income election form one week before his death from colon cancer. She is seeking $2 million in damages in addition to a $500,000 punitive award.

- Hershey has joined the rapidly growing list of US companies to convert their defined benefit pension plan to a 401(k) arrangement, similar to a group RRSP. The change affects more than 6,400 workers. Some of America's largest companies have made similar changes this year.

- Finance Minister Jim Flaherty has backed away from his 2006 federal budget proposal to channel federal surpluses to the Canada Pension Plan.

- The Ontario government has established a commission to review its pension legislation and ensure that pensions in that province remain sustainable. The five-member panel will deliver its recommendations in mid-2008.

- Going against industry trends, American Airlines has contributed an additional $100 million to its defined benefit pension plan. The airline has already poured $233 million into the plan to satisfy its minimum funding obligations for 2006. The company has contributed more than $1.5 billion to its pension plan since 2002.

- Algoma Steel has made an $85 million contribution to its pension plan. A total of $60 million of the amount was a prepayment of its 2007 funding requirements while an additional $25 million was made as a special payment to enhance plan assets.

The Coughlin Courier is published by Coughlin & Associates Ltd.
Board of Directors:
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Designer: Natalie Cox