

No. 74

5th Session, 13th Legislature, Alberta
7 Elizabeth II, 1959

BILL 74

A Bill to amend and consolidate The Hospitalization
Benefits Act and to deal with Matters Incidental
to the Administration thereof

HON. DR. ROSS

Explanatory Note

General. The Hospitalization Benefits Act, 1957, c. 30, is required to be amended at this session pursuant to Clause 2 (2) of the Memorandum of Agreement made the 27th day of June, 1958, respecting contributions under the Hospital Insurance and Diagnostic Services Act, (Canada), between the Province and the Government of Canada. That Clause reads as follows:

"(2) The province undertakes to introduce and recommend for enactment at the first session of the legislature following the execution of this agreement, such amendments to the provincial law as may be necessary to clarify certain provisions thereof and to remove certain ambiguities therefrom and in particular:

- (a) that the provisions of sub-clauses (a) and (b) of subsection (3) of section 5 of the said Act are intended only to exclude services to which a person is entitled under an Act of the Parliament of Canada or of the Province as specified in an agreement;
- (b) that the provisions of sub-clause (e) of subsection (3) of section 5 are intended to authorize the recovery of the cost of insured services under the circumstances referred to in subparagraph (d) of subsection (2) of section 5 of the Federal Act; and
- (c) that section 9a of The Department of Public Health Act and section 43 of The Public Welfare Act were intended to provide authority for an agreement in accordance with the provisions of the Federal Act."

Since its enactment this Act has been amended by 1958, c. 26, and those amendments together with the amendments required this year make it difficult to use the Act without an authorized consolidation. Therefore, the amendments are by way of a new consolidating Act. References in these notes are to sections in the existing Act, 1937, c. 30.

1. Short title.

2. (1) (a) New.

(b) Section 2 (1) (a).

(c) New.

(d) Section 2 (1) (b) presently reads:

"(b) "capital costs" includes annual payment of principal and interest on debentures or loans and depreciation on capital equipment to the extent that the capital equipment is not financed by federal or provincial grants;"

(e) Section 2 (1) (c).

(f) Section 2 (1) (e).

(g) Section 2 (1) (f) as amended by 1958, c. 26, s. 2.

(h) New. This is the definition under the hospitalization agreement. It does not alter present status. See present section 5 (4). (1958, c. 26, s. 3.).

(i) Section 2 (1) (d) but term "level" changed to "standard".

(j) New. Replaces section 2 (1) (h) to make standard ward hospitalization correspond with definition of "in-patient services" in the Federal Act, cf. present 2(1) (h). Present section 2(1) (g) removed as unnecessary in view of The Interpretation Act, 1958, c. 32, s. 20(4) relating to "regulations".

BILL

No. 74 of 1959

An Act to amend and consolidate The Hospitalization Benefits Act and to deal with Matters Incidental to the Administration thereof

(Assented to _____, 1959)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Hospitalization Benefits Act, 1959*".

2. (1) In this Act,

- (a) "Agreement" means the Agreement, as amended from time to time, made on the twenty-seventh day of June, 1958, between the Minister of Health (Alberta) and the Minister of National Health and Welfare (Canada) pursuant to the Canada Act;
- (b) "approved hospital" means a hospital that has been approved for the purposes of this Act;
- (c) "Canada Act" means the *Hospital Insurance and Diagnostic Services Act* (Canada);
- (d) "capital costs" includes annual amount of principal and interest on debentures or loans as approved;
- (e) "district" means a municipal hospital district;
- (f) "Minister" means the Minister of Health;
- (g) "municipality" means a city, town, new town, village, county, municipal district, improvement district and special area, and includes a national park if the same is within an improvement district;
- (h) "resident of the Province" means a person entitled by law to reside in Canada who makes his home and is ordinarily present in the Province, but does not include a tourist, transient or visitor to the Province;
- (i) "standard of services" means the hospital services the operating costs of which will be provided for by this Act;
- (j) "standard ward hospitalization" means the following services to in-patients, namely:
 - (i) accommodation and meals at the standard or public ward level;

(2) Section 2(2).

3. Section 3.

4. (1) and (2) Section 4.

5. New. cf. Section 5 (1958, c. 26, s. 3). This new section will set out more clearly the entitlement now that the Dominion-Provincial agreement is in force.

- (ii) necessary nursing services;
- (iii) laboratory, radiological and other diagnostic procedures together with the necessary interpretation for the purpose of maintaining health, preventing disease and assisting in the diagnosis and treatment of any injury, illness or disability;
- (iv) drugs, biologicals and related preparations when administered in a hospital, as specified in the Agreement;
- (v) use of operating room, case room and anaesthetic facilities, including necessary equipment and supplies;
- (vi) routine surgical supplies;
- (vii) use of radiotherapy facilities, where available;
- (viii) use of physiotherapy facilities, where available;
- (ix) services rendered by persons who receive remuneration therefor from the hospital.

(2) Where an improvement district includes a national park, the national park and the improvement district shall be considered as separate municipalities unless the national park's boundaries are co-terminous with the boundaries of the improvement district in which case the national park shall be considered to be the only municipality for the purposes of this Act.

3. Subject to *The Public Service Act*, the Lieutenant Governor in Council may establish within the Department of Public Health a division to be known as the Hospitals Division, for which a director and such other officers and clerks as are required may be appointed.

4. (1) The hospital benefits which shall be provided under this Act shall be standard ward hospitalization in an approved hospital of the patient's choice.

(2) Out-patient services may be provided in hospital benefits when authorized by regulations.

5. (1) Subject to this section, a resident of the Province is entitled to hospital benefits under this Act.

(2) A resident of the Province is not entitled to hospital benefits under this Act while he is or could be entitled to hospital benefits from a participating province.

(3) A resident of the Province is not entitled to receive, as a hospital benefit under this Act, any standard ward hospitalization or other services for which he is entitled to receive compensation under any workmen's compensation statute of any province.

6. New. This provision follows from clause 2(2)(f) of the Dominion-Provincial Agreement of 1958.

7. Present section 10.

(4) A resident of the Province is not entitled to receive, as a hospital benefit under this Act, any standard ward hospitalization or other services for which he is entitled to receive compensation under any statute of Canada or of any province of Canada, as specified in the Agreement.

(5) A resident of the Province is not entitled to receive hospital benefits under this Act while he is not in need of active treatment hospitalization in the opinion of the Director of Medical Services of the Department of Public Health based upon the reports of the attending physician and the hospital records.

(6) Where a resident of the Province acquires his residence in Alberta following residence in a participating Province that prescribes any period of time before its residents become entitled to insured services within the meaning of the Canada Act, that resident of the Province is not entitled to receive hospital benefits under this Act for a period of three months from the taking up of his residence in Alberta, or for such period as a resident of that participating province is required to wait before becoming entitled in that province to such insured services, whichever period is shorter.

(7) In this section "participating province" means a province that has entered into a hospitalization plan by contract with the Government of Canada under the Canada Act.

6. (1) Where as a result of the wrongful act or omission of another, a person suffers personal injuries for which he receives any hospital service as a hospital benefit under this Act, that person has the same right to recover the cost of the hospital services, against the person guilty of the wrongful act or omission, as he would have if he himself had been required to pay for the whole of the hospital services received by him.

(2) Where a person receives hospital benefits under this Act, if he is entitled to recover the cost of the hospital services received by him from some other person by way of damages for a wrongful act or omission, the Minister is entitled to recover the cost of the hospital benefits provided under this Act in respect of that first mentioned person and may sue for the same as a debt owing to the Crown by that person or the Minister may be subrogated to the rights of that person in respect of the portion of any settlement or judgment obtained by that person relating to such costs, as the Minister in his discretion may determine.

7. Nothing in this Act shall be construed to prevent a person who does not desire to receive hospital benefits as provided pursuant to this Act from assuming the entire responsibility for the payment of the costs of his hospital services.

8. Present section 6 revised.

9. Present section 7.

10. Section 8 with substantive changes in clauses (a), (c) and (d). Clauses (a) and (c) presently read:

“(a) the approval of hospitals for active treatment care, and active chronic treatment care, or either, and the approval of the location, construction and administration of approved hospitals and the conditions under which such approval will be granted for the purposes of this Act;

(c) the level of services for which payments by the Province will be made, the determination of the rates of and manner of payment including a provision for a reduction because of continued low occupancy;”.

Clauses (d) (v) and (l) are new.

8. Approved hospital operating costs shall be shared between the patients, the municipality and the Province on a basis which shall be set out in the regulations.

9. An approved hospital shall make or cause to be made by a person or persons approved by the Director of Hospitals Division an annual audit of its finances and shall submit annually to the Hospitals Division a certified copy of the auditor's report.

10. The Lieutenant Governor in Council may make regulations regarding any or all of the following matters:

- (a) the approval of hospitals for active treatment care, and the approval of the location, construction and administration of approved hospitals and the conditions under which such approval will be granted for the purposes of this Act;
- (b) the payment by the Province of part of the initial cost of hospital construction;
- (c) the standard of services for which payments by the Province will be made, the determination of the rates of and manner of payment;
- (d) the payment by the Province of all or any part of the operating costs of the hospitalization of
 - (i) persons who are in receipt of a pension or allowance in which the Province participates and authorized to hold a hospitalization entitlement card issued by the Department of Public Welfare, and the dependants of such persons,
 - (ii) persons suffering from poliomyelitis,
 - (iii) persons whose hospitalization is authorized by an arthritis clinic operated by the Department of Public Health,
 - (iv) persons whose hospitalization has been approved by a cancer clinic operated by the Department of Public Health when the hospitalization is for a period not exceeding seven days, and
 - (v) persons classed as maternity patients for a period up to twelve days, and the operating costs of the hospitalization of new born for a similar period;
- (e) the payment by the Province of hospitalization costs to any woman receiving maternity care in a private hospital licensed by the Department of Public Health or in a nursing home so licensed;
- (f) the payment by the Province of a maternity grant to any woman who provides for her own maternity services in a private residence;
- (g) the establishing of rates which approved hospitals shall charge patients or classes of patients therein;

11. Present section 9.

12. Section 11 but three mill limit changed to four mills.

- (h) the reports, including patients' charts with medical records and nurses' notes, and other information required from an approved hospital for purposes of this Act;
- (i) the establishment, operation and supervision of centres for the training of hospital personnel;
- (j) the negotiation with the government of Canada for equitable grants in respect of federally controlled lands or in respect of persons dwelling thereon;
- (k) the imposition of penalties in the way of suspension or cancellation of payments which may be imposed upon an approved hospital that gives incorrect information to the Hospitals Division, or that withholds from the Hospitals Division information that the approved hospital is required by this Act or the regulations to supply;
- (l) the provision of payment of sums for capital costs to the owners of approved hospitals in the Province;
- (m) the payment of grants to classes of nursing homes and private hospitals in respect of such nursing care given to patients therein as may be specified and subject to such terms and conditions as may be deemed advisable.

11. Payment for the hospital benefits provided under this Act shall not be made to any hospital in respect of any operation costs of the hospital resulting from or attributable in any manner to any construction or increased capacity that has not been approved.

12. (1) As its share of the operating costs of hospitals each municipality shall pay each year from its general revenue into the General Revenue Fund of the Province such amount as may be determined by the Lieutenant Governor in Council but not to exceed the amount that could be obtained from a four mill tax upon the assessment and valuation of rateable lands, within the meaning of *The Municipalities Assessment and Equalization Act*, in the municipality and as equalized by the Alberta Assessment Equalization Board under *The Municipalities Assessment and Equalization Act* as directed by regulations.

(2) Payments under this section shall be made in three payments, namely on the first day of July, September and December respectively.

(3) The amount referred to in subsection (1) shall be requisitioned from municipalities by the Department of Municipal Affairs on or before the first day of May of each year and in the event that any municipality fails to make payments as provided in subsections (1) and (2) the Department of Municipal Affairs may require the Provincial Treasurer to pay any grants payable to the municipality for that year into the General Revenue Fund of the Province until the amount requisitioned and unpaid by the municipality has been received.

13. New. Cf. Section 12, which is no longer required since the Province is assuming responsibility for payment of capital costs. New section spells out remaining responsibility of municipalities.

14. Section 14.

15. Section 15, but reference to clause 10 added.

16. Section 16.

17. Section 17.

13. (1) Notwithstanding section 12, a municipality or a municipal hospital district shall provide out of its general revenue and pay to the approved hospital that is operated by the municipality or by the municipal hospital district, any amounts required for operating or capital purposes in respect of that approved hospital and in excess of any amounts paid for that purpose by the Minister.

(2) In case of a non-municipal hospital, that is to say, an approved hospital other than one operated by a municipality or by a board of a municipal hospital district, a municipality or municipal hospital district within whose area the non-municipal hospital is located may enter into an agreement with a non-municipal hospital to contribute toward amounts required for operating or capital purposes in respect of the non-municipal hospital and in excess of any amounts paid for that purpose by the Minister.

14. (1) The Lieutenant Governor in Council may from time to time appoint a committee of inquiry to whom or to any one or more of whom any question respecting the conduct or management of an approved hospital may be referred for the purpose of making inquiry with respect thereto and reporting thereon to the Minister.

(2) The committee, or the member or members, to which a question is referred have and may exercise all the powers that are conferred upon a commissioner under *The Public Inquiries Act*.

(3) The members of a committee appointed under this section shall receive such remuneration as may be fixed by the Lieutenant Governor in Council.

15. (1) In addition to the power conferred by section 10, the Lieutenant Governor in Council may make such other regulations as are deemed necessary to carry out the purposes and objects of this Act.

(2) Any regulation made pursuant to this Act has the same force and effect as if it were expressly set out herein.

16. The Lieutenant Governor in Council may enter into reciprocal agreement with the government of any one or more provinces to provide hospital benefits as provided under this Act to persons who were eligible to receive such benefits but who have changed their place of residence to another province.

17. (1) A by-law, rule or regulation duly made by the board of an approved hospital for the administration thereof and approved in writing by the Minister has the same effect as a regulation made under this Act.

(2) The approval of the Minister may be withdrawn by notification in writing at any time and thereafter subsection (1) does not apply in respect of the by-law, rule or regulation for which approval has been withdrawn.

18. Section 18.

19. Section 19.

20. Section 13.

21. New. See note at beginning of this Bill and clause 2(c) of the Agreement as therein set out.

22. For administration and financial purposes certain amendments are necessary to The Municipal Hospitals Act.

23. Repeal of present Act.

24. Commencement. Clause 6 is retroactive.

18. Notwithstanding *The Limitation of Actions Act*, no action whether in tort or contract or otherwise lies against an approved hospital for damages arising out of any omission or negligence by a hospital or the board thereof in providing any service in the hospital unless the action is commenced within one year after the cause of action arose.

19. The payments of hospital benefits under this Act as authorized pursuant to this Act and the regulations and the expense of administering this Act shall be paid out of the moneys appropriated by the Legislature for that purpose.

20. (1) Where there is a conflict between the provisions of this Act and the provisions of any other Act, the provisions of this Act prevail.

(2) Without limiting the generality of subsection (1), the provisions of this Act and the regulations supersede and replace any provisions with which they are at variance or in conflict in any of the following Acts, namely:

- (a) *The Hospitals Act*;
- (b) *The Municipal Hospitals Act*;
- (c) *The Cancer Treatment and Prevention Act*;
- (d) *The Poliomyelitis Sufferers Act*;
- (e) *The Maternity Hospitalization Act*;
- (f) *The Hospitalization and Treatment Services Act*.

21. For the purpose of removing doubts it is hereby declared that the Minister of Health had authority, under section 9a of *The Department of Public Health Act* and section 43 of *The Public Welfare Act*, or either provision, to enter into the Agreement with the Minister of National Health and Welfare (Canada) under the Canada Act.

22. (1) For the purpose of better carrying out the intent and purpose of this Act, *The Municipal Hospitals Act* is amended in the manner and to the extent enumerated in the Schedule hereto.

(2) Notwithstanding any provision of *The Municipal Hospitals Act* no plebiscite for the purpose of approving or disapproving a hospital scheme under that Act shall be undertaken unless the Minister signifies in writing that he is prepared to approve the construction of a hospital in and for the area of a proposed hospital scheme.

23. This Act repeals and replaces *The Hospitalization Benefits Act*, being chapter 30 of the Statutes of Alberta, 1957.

24. This Act comes into force on the first day of April, 1959, and section 6 shall be deemed to have been in force at all times on and after the first day of April, 1958.

SCHEDULE

AMENDMENTS TO THE MUNICIPAL HOSPITALS
ACT, BEING CHAPTER 216 OF THE
REVISED STATUTES

- (a) Section 28 of the said Act is amended by striking out the words "Board of Public Utility Commissioners" where they occur in subsections (2) and (3) and by substituting the words "Lieutenant Governor in Council";
- (b) Section 44 of the said Act is amended
- (i) as to subsection (1), clause (b) by striking out words "Board of Public Utility Commissioners" and by substituting the words "Lieutenant Governor in Council",
 - (ii) as to subsection (2) by striking out all the words following clause (b) and by substituting the following:
"the Minister shall decide whether the petition should be granted, a vote taken with respect to the request in the petition or the petition refused, and the Minister may make any order necessary to carry out his decision.",
 - (iii) by striking out subsection (3);
- (c) Section 48, subsection (2) of the said Act is amended by striking out the words "Board of Public Utility Commissioners" and by substituting the words "Lieutenant Governor in Council";
- (d) Section 49 of the said Act is struck out and the following is substituted:
"49. Where a change is made in the area of a district pursuant to section 44, 45 or 47, the Minister has,
- (a) as to the adjustment of assets and liabilities, and
 - (b) as to the adjustment of taxation for the current year,
- powers similar to the powers possessed under *The School Act* by the Minister of Education when an area is added to or taken from a school district.";
- (e) Section 92 of the said Act is amended by striking out all the words following clause (b) and by substituting the following:
"unless provision has been made for the protection of the holders of debentures of the district and the Lieutenant Governor in Council has given all necessary directions to secure the effective carrying out of the provisions of this section.";
- (f) Section 93, subsection (2) of the said Act is amended by striking out the words "Board of Public Utility Commissioners" and by substituting the words "Lieutenant Governor in Council";
- (g) Section 107 of the said Act is amended

- (i) as to subsection (5) by striking out clauses (a) and (b) and by substituting the words "the estimate of the additional capital expenditure proves to be inadequate by reason of an increase in the cost of labour or material",
 - (ii) as to subsection (6) by striking out the words "and the Board of Public Utility Commissioners approve" and by substituting the word "approves";
- (h) Section 108 of the said Act is amended by striking out subsection (1) and by substituting the following:
- "108.** (1) Where, after the ratification of the hospital scheme, the estimate of the capital expenditure set out in the scheme proves to be inadequate owing to the increase in size or population of the district and the Minister is of the opinion that an additional expenditure over and above the estimate may reasonably be made and so orders, the board may expend such additional amount of money as may be prescribed in the order of the Minister.";
- (i) Section 109 of the said Act is amended
- (i) as to subsection (1)
 - (A) by striking out the words "Board of Public Utility Commissioners" where they occur in subclause (ii) of clause (a) and by substituting the words "Lieutenant Governor in Council",
 - (B) by striking out the words "Board of Public Utility Commissioners" where they occur in subclause (v) of clause (a) and by substituting the word "Minister",
 - (C) by striking out the words "Board of Public Utility Commissioners" where they occur in clause (b) and by substituting the word "Minister",
 - (ii) as to subsection (2) by striking out the words "Board of Public Utility Commissioners" and by substituting the word "Minister".
 - (iii) as to subsection (3)
 - (A) by striking out the words "Board of Public Utility Commissioners" and by substituting the word "Minister",
 - (B) by striking out the words "it deems" and by substituting the words "to him seems";
- (j) Section 110 of the said Act is amended by striking out the words "Board of Public Utility Commissioners" wherever they occur in subsections (3) to (6) and by substituting the word "Minister";
- (k) Section 114, subsection (1) of the said Act is amended by striking out the words "Board of Public Utility Commissioners" and by substituting the word "Minister".

No. 74

FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

BILL

An Act to amend and consolidate
The Hospitalization Benefits Act
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Received and read the

First time.....

Second time.....

Third time.....

HON. DR. ROSS
