

1972 Bill 122

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 122

The Health Insurance Statutes Amendment Act, 1972

HONOURABLE MISS HUNLEY

First Reading

Second Reading

Third Reading

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BILL 122

1972

THE HEALTH INSURANCE STATUTES AMENDMENT ACT, 1972

(Assented to _____, 1972)

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

PART 1

THE ALBERTA HEALTH CARE INSURANCE ACT

1. *The Alberta Health Care Insurance Act is amended by this Part.*

2. *Section 19 is amended*

(a) *as to subsection (3) by striking out the words "Penitentiaries Act" and by substituting the words "Penitentiary Act",*

(b) *by adding the following subsection:*

(4) The Commission shall not pay benefits in respect of basic health services provided to a resident where that resident was not registered under Part 3 at the time the services were provided.

3. *Section 20 is amended by adding the following subsection after subsection (3):*

(4) Notwithstanding subsection (3), in any case in which the person who is temporarily absent from Alberta is a resident who is in arrears of the payment of premiums under *The Health Insurance Premiums Act*, or is a dependant of a resident who is in arrears of the payment of premiums thereunder, the Commission may withhold the payment of benefits until it is satisfied that the arrears of premiums have been paid.

4. *Section 21, subsection (1) is amended by adding the following clauses after clause (i):*

(j) requiring practitioners to file with the Commission such kinds of information as the regulations may prescribe for the purpose of facilitating the handling, assessing and payment of claims for benefits;

Explanatory Notes

1. Part 1 of this Bill amends chapter 166 of the Revised Statutes of Alberta. See also The Alberta Health Care Insurance Amendment Act, 1972 (S.A. 1972, c. 45) assented to on June 2, 1972 (Bill 69).

Part 2 of this Bill amends The Health Insurance Premiums Act.

2. (a) Corrects a statutory reference.

(b) The new subsection (4) will make registration with the Commission a condition to entitlement for benefits under the Plan.

Regulations under section 21(1)(e) of the Act have been made to establish a waiting period of up to three months from the date of registration and during which the resident so registered will not be entitled to benefits.

3. Empowers the Commission to withhold the payment of benefits in respect of temporarily absent residents who are in arrears of the payment of premiums under The Health Insurance Premiums Act until the arrears are paid.

Section 20, subsection (3) presently reads:

(3) A resident does not cease to be entitled to benefits for insured services by reason of being temporarily absent from Alberta.

4. Section 21(1) authorizes the Lieutenant Governor in Council to make regulations. The new clauses will authorize regulations for the obtaining of information respecting practitioners for the purpose of processing and paying of claims submitted by them.

- (k) prescribing the times by which, or the circumstances under which practitioners are required to file information pursuant to the regulations under clause (j);
- (l) authorizing the Commission to withhold the payment of benefits to any practitioner until he has complied with the regulations under clauses (j) and (k).

5. *The following sections are added after section 22:*

22.1 (1) In this section

- (a) “association” or “professional association” means
 - (i) The Alberta Medical Association (C.M.A. - Alberta Division), or
 - (ii) The Alberta Dental Association, or
 - (iii) The Alberta Optometric Association, or
 - (iv) the Alberta Chiropractic Association, or
 - (v) the Alberta Podiatry Association;
- (b) “council” or “council of a professional association” means
 - (i) the board of directors of The Alberta Medical Association (C.M.A. - Alberta Division), or
 - (ii) the board of directors of The Alberta Dental Association, or
 - (iii) the Council of Management of The Alberta Optometric Association, or
 - (iv) the council of the Alberta Chiropractic Association, or
 - (v) the Council of Management of the Alberta Podiatry Association;
- (c) “professional review committee” or “committee” means a professional review committee appointed by a council pursuant to this section.

(2) Each council of a professional association

- (a) shall appoint a committee for its association called the “professional review committee” consisting of at least three members of the association;
- (b) shall designate one of the members as chairman;
- (c) shall inform the Commission of the names of the persons who are from time to time the chairman and members of its professional review committee;
- (d) may in its by-laws provide for the regulation of the proceedings, business and affairs of the committee.

(3) The Commission may, on its own motion or upon the complaint of any person, direct that the appropriate pro-

5. The new sections 22.1 and 22.2 provide for a procedure for the review of claims records of a practitioner by members of his own profession who will report their findings to their governing body. That body in turn will advise the Commission which may in turn endeavour to settle the matter or, failing settlement, apply to the Supreme Court for a judgment. The Commission may, with respect to future claims, make an order under section 22.2 to pro-rate claims.

The proceedings relate to claims by practitioners which are excessive or unjustifiable in the circumstances although they are technically chargeable on a literal application of the Commission's schedule of benefits.

professional review committee conduct a review of the records of the Commission pertaining to claims for benefits paid in respect of basic health services provided by the practitioner named in the direction during the period specified in the direction.

(4) The committee shall, upon the receipt by its chairman of a direction under subsection (1), proceed to conduct the review referred to in the direction.

(5) The chairman of the committee shall by written notice invite the practitioner concerned to participate in the review or such part of the review as the chairman may direct, and the practitioner may in participating in the review be accompanied by legal counsel.

(6) Upon completion of its review, the committee shall submit a report to the council containing its findings under subsection (7) and its recommendations.

(7) The report of the committee shall show, with respect to any particular basic health service or class thereof, any cases where, in the opinion of the committee,

- (a) the service was provided with a frequency that, in the circumstances, was unjustifiable, or
- (b) the total amount of benefits received for the services was, in the circumstances, greater compensation to the practitioner for those services than it should have been, or
- (c) the service provided was, in the circumstances, inappropriate or unnecessary, or
- (d) the service provided could have been replaced by another professionally acceptable service for which a lower rate of benefits was payable.

(8) In its report the committee shall also indicate its calculation of the following:

- (a) in cases coming within subsection (7), clauses (a) and (b), the difference between the benefits actually paid for the services and the amount that, in its opinion, would have been reasonable compensation for those services;
- (b) in cases coming within subsection (7), clause (c), the amount of benefits paid for the services it considered were inappropriately or unnecessarily provided;
- (c) in cases coming within subsection (7), clause (d), the difference between the benefits actually paid for the services and the amount of benefits for the other services that it considers could have replaced them.

(9) In making findings under subsections (7) and (8), the committee shall have regard to all the circumstances which, without limitation, shall include

- (a) normal patterns of practice in Alberta of practitioners of their profession who carry on similar types of practice in similar circumstances;
 - (b) accepted professional standards of practice in their profession in Alberta;
 - (c) in cases referred to in subsection (7), clause (b), the amount that would have been reasonable compensation for the service provided, in view of the time and degree of skill involved in providing the service.
- (10) Upon receipt of the committee's report, the council shall consider it and make a further report showing either
- (a) that the council concurs in the report and recommendations of the committee, or
 - (b) where the council does not concur entirely with the committee's report and recommendations, the council's own findings and recommendation in respect of the review, in which case subsections (7), (8) and (9), with the necessary modifications, apply.
- (11) The council shall send its report to the Commission together with a copy of the committee's report and thereupon the Commission shall, if it considers it advisable to take further action thereon,
- (a) send copies of the committee's report and the council's report to the practitioner concerned, and
 - (b) make arrangements, or use its best efforts to make arrangements, with the practitioner for the purpose of giving the practitioner the opportunity of discussing the reports with the Commission with a view to negotiating an agreement in accordance with subsection (12).
- (12) The Commission and the practitioner concerned may enter into an agreement whereby the practitioner agrees to pay to the Commission a fixed sum of money upon execution of the agreement or upon such terms as to repayment as may be specified and upon execution of the agreement the Commission has no further claims under this section against that practitioner with respect to services provided by him during the period covered by the review of the committee.
- (13) Where the practitioner neglects or refuses to enter into discussions with the Commission under subsection (12) or it has become impossible, in the opinion of the Commission, to negotiate or conclude an agreement under that subsection, the Commission
- (a) on the basis of the reports before it and its own records, shall determine whether there are any cases

coming within subsection (7) and, if so, make its own calculation of the amount referred to in subsection (8), and

(b) may recover the amount so calculated by action in the Supreme Court of Alberta.

(14) In an action under subsection (13), the Court shall determine

(a) whether in its opinion and on the basis of the reports of the council and the committee and the evidence adduced before it, there are any cases coming within subsection (7), and

(b) if there are such cases, the Court's own calculation of the amount referred to in subsection (8),

and for that purpose, subsection (9), with the necessary modifications, applies.

(15) Subject to subsections (5) and (11), a practitioner is not entitled to be heard before a professional review committee, the council or the Commission in respect of any matter under this section or section 22.2.

(16) Nothing in this section or section 22.2 operates

(a) to abrogate or restrict any other remedy the Commission has under this Act or at law, or

(b) to abrogate or restrict any disciplinary proceedings that may be taken against the practitioner concerned in respect of anything that is the subject of proceedings under this section under *The Medical Profession Act*, *The Dental Association Act*, *The Optometry Act*, *The Chiropractic Profession Act* or *The Podiatry Act*, as the case may be.

22.2 (1) Where a practitioner becomes liable to the Commission under section 22.1, the Commission may, with or without the consent of the practitioner, make an order directing that, the Commission will not pay benefits in respect of services provided by the practitioner after a date specified in the order.

(2) An order under subsection (1)

(a) may be for a stated period or of indefinite duration;

(b) shall specify the basic health services to which it relates;

(c) shall specify, as to any service referred to in clause (b), whether no benefits are to be paid by the Commission in respect of it, or the portion of the benefits that are to be paid.

(3) A copy of an order under this section shall be served on the practitioner against whom it is made, and except in the case where it was made with his consent, the practit-

itioner may, within 30 days after the date on which he received the copy of the order, apply to the Supreme Court of Alberta by originating notice of motion, to have the order rescinded or varied.

(4) After the hearing of the application, the Court may direct the Commission

- (a) to rescind its order, if it considers the Commission had no reasonable justification for making it, or
- (b) to vary its order in the manner specified by the Court.

(5) Where an order of the Commission is in effect under this section, the practitioner against whom it is made shall not charge or be entitled to recover, as fees or benefits, for services provided by him,

- (a) any amount for his services, where the order directs that no benefits are payable for those services, or
- (b) any amount in excess of the percentage specified in the order, where the order specifies that only a portion of the benefits are to be paid for those services.

6. Section 25 is amended

(a) *by adding the following subsection after subsection (1):*

(1.1) A member of the Commission or an employee of the Commission authorized by a member may disclose or communicate information pertaining to the date on which basic health services were provided and the general nature of those services, the name and address of the person who provided the service, the benefits paid by the Commission for that service and the person to whom they were paid, the name and address of the person to whom the services were provided and any other information pertaining to the nature of the basic health services provided, to the Provincial Cancer Hospitals Board, The Workmen's Compensation Board, the Alberta Hospital Services Commission, or the Division of Social Hygiene of the Department of Health and Social Development, if

- (a) a member or officer of the Board or Commission, or an officer of the Division, as the case may be, makes a written request therefor,
- (b) the information required is necessary and relevant to a matter being dealt with by the Board or the Division, and
- (c) the disclosure or communication is consented to by the person to whom the services were provided, his solicitor, personal representative or

6. (a) Self-explanatory

(b), (c) and (d). The definition of “professional association” is changed to “disciplinary body” in order to distinguish it from the proposed definition of “professional association” in section 22.1 (1) see section 5 of this Bill. The amendments to subsections (4) and (5) are a consequence of the change.

guardian, the committee of his estate, his trustee on bankruptcy or other legal representative.

(b) *as to subsection (4) by striking out the words "to the professional association" and by substituting the words "to a disciplinary body of the College or association, as the case may be,"*

(c) *as to subsection (5) by striking out the words "may disclose to a professional association" and by substituting the words "may disclose to a disciplinary body",*

(d) *by striking out subsection (6) and by substituting the following:*

(6) In subsections (4) and (5), "disciplinary body" means

(a) the council of the College or a discipline committee under *The Medical Profession Act*, or

(b) the board of directors of The Alberta Dental Association or the discipline committee of that Association, or

(c) the Council of Management of The Alberta Optometric Association or the discipline committee of that Association, or

(d) the council of the Alberta Chiropractic Association, or

(e) the Council of Management of the Alberta Podiatry Association.

7. Section 32 is amended by adding the following subsection after subsection (1):

(1.1) Where an order is made by the Commission against a practitioner pursuant to section 22.2, any bill or account or receipt issued by or on behalf of the practitioner, shall, in the case of any charge for a basic health service to which the order relates and which is provided at a time when the order is in effect,

(a) be in an amount not exceeding that allowed by the order, and

(b) clearly show that the charges are subject to an order of the Commission under section 22.2 and that the amount so charged is not in excess of that allowed by the order.

8. Section 35 is amended by adding the following subsection after subsection (2):

(3) Where the Commission registers any person under this section it may make the registration effective as of the

7. See section 5 of this Bill and the proposed section 22.2. The proposed subsection (1.1) is related to the requirement that practitioners not be entitled to charge for fees in excess of what is allowed under a fee prorating order under section 22.2.

8. Section 35(1) presently reads:

35. (1) Where

(a) a claim for benefits is made under this Act by or on behalf of a resident who is not registered with the Commission, or

(b) insured services (within the meaning of Part 3 of The Alberta Hospitals Act) are provided to a resident who is not registered with the Commission,

the Commission may register that resident upon being furnished with evidence satisfactory to it that he is a resident of Alberta.

The new subsection (3) will allow the Commission in these cases to backdate the registration. Thus any waiting period prescribed by regulation will begin to run from the prior date.

date as of the claim for benefits is received by the Commission or the date on which the person is admitted to an approved hospital, as the case may be.

9. The following section is added after section 41:

41.1 (1) A person who is expressly authorized to do so by the Commission may,

- (a) with the consent of the practitioner or group of practitioners concerned, examine and audit any books and accounts maintained by or on behalf of a practitioner or group of practitioners, or
- (b) with the consent of the patient concerned or his legal representative, the practitioner and the council of the College or professional association of which the practitioner is a member, examine patient records maintained by a practitioner,

and in the course of an examination or audit made with such consent may take extracts from, or make copies of, all or any part of those books and accounts or patient records.

(2) Where any practitioner does not give or refuses to give any consent under subsection (1) after the Commission has requested that consent, the Commission may withhold the payment of benefits to that practitioner in respect of claims made by him on behalf of residents until the consent is given.

(3) In this section, "legal representative" means, with reference to a patient, his solicitor, personal representative or guardian, the committee or guardian of his estate or other legal representative of that patient.

9. 41.1 Inspection and examination of books and accounts or patient records of a practitioner, subject to his consent and, in the case of patient records, the consent of the patient and the professional association concerned. Lack of consent on the practitioner's part may lead to the Commission withholding the payment of claims to him until the consent is given.

PART 2

THE HEALTH INSURANCE PREMIUMS ACT

10. *The Health Insurance Premiums Act is amended by this Part.*

11. *Section 4 is amended*

- (a) *as to subsection (1), by striking out the words "Except as otherwise provided in this Act, every resident who is neither," and by substituting the words "Except as otherwise provided in this Act, every resident who is registered under The Alberta Health Care Insurance Act, and who is neither",*
- (b) *as to subsection (1), clause (b), subclause (iii) and subsection (3) by striking out the words "Penitentiaries Act" wherever they occur and by substituting the words "Penitentiary Act".*

12. *Section 10, subsection (3) is amended by striking out the words "subsections (4) to (6)" and by substituting the words "subsections (4) to (9)".*

13. (1) *Section 22 is amended*

- (a) *as to subsection (2) by adding at the end thereof the words "and the effect of the provisions of subsection (7)",*
- (b) *by adding the following subsections after subsection (6):*

(7) Notwithstanding anything in subsections (1) and (6),

- (a) the spouse of the resident who filed a declaration may file with the Commission an election to have the spouse and the dependants excluded from the declaration;
- (b) a dependant of that resident may file with the Commission an election to have himself excluded from the declaration, if no election has been filed under clause (a);

and an election so filed takes effect on the first day of the month next following the month in which it is filed.

(8) Where a spouse files an election under subsection (7), clause (a),

- (a) the declaration does not extend to or apply to the spouse and dependants of the resident during the period that the election is in effect;
- (b) the resident is liable for the payment of premiums under this Act in respect of the spouse and dependants during the period that the election is in effect.

10. Part 2 of this Bill amends chapter 167 of the Revised Statutes of Alberta 1970.

11. Section 4, subsection (1) presently reads:

4. (1) Except as otherwise provided in this Act, every resident who is neither

(a) a dependant, nor

(b) a member of

(i) the regular forces of the Canadian Forces, or

(ii) the Royal Canadian Mounted Police Force, or

(iii) a person serving a term of imprisonment in a penitentiary as defined in the Penitentiaries Act (Canada),

who has no dependants resident in Alberta,

is liable to the Commission for and shall, subject to this Act and the regulations and according as to whether he is a person with or without dependants, pay to the Commission in advance on behalf of himself and of his dependants, if any, the amount of the premium prescribed in the regulations.

(a) Liability for the payment of premiums will be dependent upon registration under The Alberta Health Care Insurance Act.

(b) Corrects references.

12. Consequential to chapter 46, Statutes of Alberta, 1972, section 4. Section 10, subsection (3) presently reads:

(3) Section 9, subsection (3), clause (c) and subsections (4) to (6) apply to a designated group to the same extent as though it were an employer's group.

13. Section 22(1), (5) and (6) presently read:

22. (1) A resident who is not a dependant may, subject to this section, for himself and his dependants, file with the Commission a declaration stating that he elects to remain outside the Alberta Health Care Insurance Plan and the Hospitalization Benefits Plan under Part 3 of The Alberta Hospitals Act.

(5) In this section "plan year" means a 12-month period referred to in subsection (4).

(6) If a resident files a valid declaration under subsection (1), then, notwithstanding anything in this Act, The Alberta Health Care Insurance Act or The Alberta Hospitals Act,

(a) neither he nor his dependants are entitled to benefits under The Alberta Health Care Insurance Act in respect of basic health services provided to them during the following plan year,

(b) he is personally and solely liable for the payment to a hospital of the entire cost of insured hospital services provided to himself and his dependants during the next plan year,

(c) neither he nor any of his dependants are entitled to be enrolled by the Commission as members of The Blue Cross Plan pursuant to the Blue Cross agreement,

(d) neither he nor any of his dependants is entitled to apply for or obtain an optional contract issued under the regulations under Part 4 of The Alberta Health Care Insurance Act, or to obtain any benefits under such a contract, during the next plan year, and

(e) he is not liable for payment of premiums under this Act that become due during the next plan year.

Where a resident files a declaration to opt out of the Medicare and Hospitalization Benefits Plans, the resident's spouse will be able in future to elect to exclude herself and their dependants from the declaration. Similarly, a dependant may elect to be excluded from the declaration if he assumes payment of his own premiums.

(9) Where a dependant files an election under subsection (7), clause (b),

- (a) the declaration does not extend to or apply to the dependant during the period that the election is in effect;
- (b) the dependant is liable for the payment of premiums under this Act in respect of himself unless the resident agrees to be liable for the payment of those premiums.

(2) This section applies to declarations under section 22 of The Health Insurance Premiums Act in effect at the time this section comes into force and to declarations made thereafter.

PART 3

COMMENCEMENT

14. This Act comes into force on the day upon which it is assented to.

